

By

*Glasgow*  
*Harris*  
*Huskins*

S.B. No. 671

A BILL TO BE ENTITLED  
AN ACT

relating to the regulation of dietitians; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. SHORT TITLE. This Act may be cited as the  
Licensed Dietitian Act.

SECTION 2. DEFINITIONS. In this Act:

(1) "Board of health" means the Texas Board of Health.

(2) "Department" means the Texas Department of Health.

(3) "Commissioner" means the commissioner of health.

(4) "Board" means the Texas State Board of Examiners of  
Dietitians.

(5) "Commission on Dietetic Registration" means the  
Commission on Dietetic Registration that is a member of the  
National Commission on Health Certifying Agencies.

(6) "Dietetics" means the professional discipline of  
applying and integrating scientific principles of nutrition under  
different health, social, cultural, physical, psychological, and  
economic conditions to the proper nourishment, care, and education  
of individuals or groups throughout the life cycle. The term  
includes without limitation the development, management, and  
provision of nutritional services.

(7) "Licensed dietitian" means a person licensed under this  
Act.

(8) "Provisional licensed dietitian" means a person

1 provisionally licensed under this Act.

2 (9) "Degree" means a degree received from a college or  
3 university that was regionally accredited at the time the degree  
4 was conferred.

5 SECTION 3. BOARD; MEMBERSHIP. (a) The Texas State Board of  
6 Examiners of Dietitians is created.

7 (b) The board is composed of nine members. Three members  
8 must be members of the general public. Six members must be  
9 dietitians licensed under this Act.

10 (c) The governor, with the advice and consent of the Senate,  
11 shall appoint the board members, who shall serve staggered terms of  
12 six years with two terms beginning February 1 of each odd-numbered  
13 year.

14 (d) The professional discipline of dietetics includes five  
15 primary areas of expertise: clinical, educational, management,  
16 consultation, and community. In making the six professional  
17 appointments to the board, the governor shall consider and attempt  
18 to accomplish a continuing balance of representation among these  
19 areas of expertise.

20 (e) A person is eligible for appointment as a public member  
21 if the person and the person's spouse:

22 (1) are not licensed by an occupational regulatory agency in  
23 the field of health care;

24 (2) are not employed by and do not participate in the  
25 management of an agency or business entity that provides  
26 health-care services or that sells, manufactures, or distributes  
27 health-care supplies or equipment; and

1           (3) do not own, control, or have a direct or indirect  
2 interest in more than 10 percent of a business entity that provides  
3 health-care services or that sells, manufactures, or distributes  
4 health-care supplies or equipment.

5           (f) An appointment to the board shall be made without regard  
6 to the race, creed, sex, religion, or national origin of the  
7 appointee.

8           (g) A member or employee of the board may not be an officer,  
9 employee, or paid consultant of a trade association in the field of  
10 health care. A member or employee of the board may not be related  
11 within the second degree of affinity or consanguinity to a person  
12 who is an officer, employee, or paid consultant of a trade  
13 association in the dietetic industry.

14           (h) A person who is required to register as a lobbyist under  
15 Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973  
16 (Article 6252-9c, Vernon's Texas Civil Statutes), in a health  
17 related area may not serve as a member of the board or act as the  
18 general counsel to the board.

19           SECTION 4. GROUNDS FOR REMOVAL. (a) It is a ground for  
20 removal from the board if a member:

21           (1) does not have at the time of appointment the  
22 qualifications required for appointment to the board;

23           (2) does not maintain during service on the board the  
24 qualifications required for appointment to the board; or

25           (3) violates a prohibition established by this Act.

26           (b) If a ground for removal of a member from the board  
27 exists, the board's actions taken during the existence of the

1 ground for removal are valid.

2 SECTION 5. OFFICERS; MEETINGS; QUORUM; EXPENSES. (a) Not  
3 later than the 30th day after the day its new members are appointed  
4 by the governor, the board shall meet to elect a chairman and  
5 vice-chairman who shall hold office according to rules adopted by  
6 the board.

7 (b) The board shall hold at least two regular meetings each  
8 year as provided by rules adopted by the board. The rules may not  
9 be inconsistent with present rules of the department relating to  
10 meetings of boards.

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13 payment at the rate set by the legislature for state employees in  
14 the General Appropriations Act for each day that the member engages  
15 in the business of the board. A member is entitled to compensation  
16 for transportation expenses as provided by the General  
17 Appropriations Act. A board member may not receive a fixed salary  
18 for his services.

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20 adopt rules consistent with this Act. In adopting rules, the board  
21 shall consider the rules and procedures of the board of health and  
22 the department and shall adopt procedural rules not inconsistent  
23 with similar existing rules and procedures of the board of health  
24 or the department.

25 (b) The board shall:

26 (1) adopt and publish a code of ethics and adopt an official  
27 seal;

1           (2) establish the qualifications and fitness of applicants  
2 for licenses, renewal of licenses, and reciprocal licenses;

3           (3) revoke, suspend, or deny a license, probate a license  
4 suspension, or reprimand a licensee for a violation of this Act,  
5 the code of ethics, or the rules of the board;

6           (4) spend funds necessary for the proper administration of  
7 its assigned duties;

8           (5) establish reasonable and necessary fees for the  
9 administration and implementation of this Act; and

10          (6) comply with the open meetings law, Chapter 271, Acts of  
11 the 60th Legislature, Regular Session, 1967 (Article 6252-17,  
12 Vernon's Texas Civil Statutes), and the Administrative Procedure  
13 and Texas Register Act (Article 6252-13a, Vernon's Texas Civil  
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15          (c) The board may not adopt rules restricting competitive  
16 bidding or advertising by a person regulated by the board except to  
17 prohibit false, misleading, or deceptive practices. The board may  
18 not include in its rules to prohibit false, misleading, or  
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20           (1) restricts the person's use of any medium for  
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23 personal voice in an advertisement;

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25 the person; or

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27          SECTION 7. ADMINISTRATIVE FUNCTIONS; PERSONNEL. (a) The

1 basic personnel and necessary facilities that are required to  
2 administer this Act shall be the personnel and facilities of the  
3 department. The department personnel shall act as the agents of  
4 the board. If necessary to the administration or implementation of  
5 this Act, the department, by agreement, may secure, and provide for  
6 compensation for, services that it considers necessary and may  
7 employ and compensate, within available appropriations,  
8 professional consultants, technical assistants, and employees on a  
9 full-time or part-time basis.

10 (b) The commissioner shall designate an employee to serve as  
11 executive secretary of the board. The executive secretary must be  
12 an employee of the department. The executive secretary shall be  
13 the administrator of the licensing activities for the board. In  
14 addition to other duties prescribed by this Act and by the  
15 department, the executive secretary shall:

16 (1) keep full and accurate minutes of the transactions and  
17 proceedings of the board;

18 (2) be the custodian of the files and records of the board;

19 (3) prepare and recommend to the board plans and procedures  
20 necessary to implement the purposes and objectives of this Act,  
21 including rules and proposals on administrative procedures  
22 consistent with this Act;

23 (4) exercise general supervision over persons employed by  
24 the department in the administration of this Act;

25 (5) be responsible for the investigation of complaints and  
26 for the presentation of formal complaints;

27 (6) attend all meetings of the board as a nonvoting

1 participant; and

2 (7) handle the correspondence of the board, make or arrange  
3 for necessary inspections and investigations, and obtain, assemble,  
4 or prepare the reports and information that the board may direct or  
5 authorize.

6 SECTION 8. FEES; FUNDS; ANNUAL REPORT; AUDIT. (a) After  
7 consultation with the commissioner or the department, the board  
8 shall set the fees imposed by this Act in amounts that are adequate  
9 to collect sufficient revenue to meet the expenses necessary to  
10 administer this Act without accumulating an unnecessary surplus in  
11 the Licensed Dietitian Act fund created by this section.

12 (b) The department shall receive and account for funds  
13 derived under this Act. The funds shall be deposited in the state  
14 treasury to the credit of a special fund to be known as the  
15 Licensed Dietitian Act fund to be used only for the administration  
16 of this Act.

17 (c) Not later than January 1 each year, the department shall  
18 make a written report to the governor, lieutenant governor, and  
19 speaker of the house of representatives accounting for all funds  
20 received and disbursed by the board or the department for the  
21 administration of this Act during the preceding year.

22 (d) During each fiscal year, the state auditor shall audit  
23 the financial transactions of the board or the department in  
24 relation to the administration of this Act.

25 SECTION 9. APPLICANT QUALIFICATIONS; APPLICATION REVIEW.

26 (a) An applicant for a dietitian license must submit a sworn  
27 application, accompanied by the application fee.

1           (b) The board shall prescribe the form of the application  
2 and may by rule establish dates by which applications and fees must  
3 be received. These rules must not be inconsistent with present  
4 rules of the department related to application dates of other  
5 licenses.

6           (c) To qualify for the licensing examination under this Act,  
7 the applicant must:

8           (1) possess a baccalaureate or postbaccalaureate degree with  
9 a major course of study in human nutrition, food and nutrition,  
10 dietetics, or food systems management, or an equivalent major  
11 course of study approved by the board; and

12           (2) have completed an internship or preplanned professional  
13 experience program approved by the board.

14           (d) Not later than the 45th day after the receipt of a  
15 properly submitted and timely application, and not later than the  
16 30th day before the next examination date, the department shall  
17 notify an applicant in writing that his application and any other  
18 relevant evidence pertaining to applicant qualifications  
19 established by the board by rule has been received and  
20 investigated. The notice shall state whether the application and  
21 other evidence submitted have qualified the applicant for  
22 examination. If the applicant has not qualified for examination,  
23 the notice shall state the reasons for the lack of qualification.

24           SECTION 10. EXAMINATION. (a) To qualify for a license  
25 under this Act, an applicant must pass a competency examination.  
26 Examinations shall be prepared or approved by the board and  
27 administered to qualified applicants at least twice each calendar



1 year.

2 (b) An examination prescribed by the board may be or may  
3 include an examination given by the Commission on Dietetic  
4 Registration or by a national or state testing service.

5 (c) Not later than the 30th day after the day on which a  
6 licensing examination is administered under this Act, the  
7 department shall notify each examinee of the results of the  
8 examination. If an examination is graded or reviewed by a national  
9 or state testing service, the department shall notify examinees of  
10 the results of the examination within two weeks after the day the  
11 department receives the results from the testing service. If the  
12 notice of the examination results will be delayed for more than 90  
13 days after the examination date, the department shall notify the  
14 examinee of the reason for the delay before the 90th day.

15 (d) If requested in writing by a person who fails the  
16 licensing examination, the department shall furnish the person with  
17 an analysis of the person's performance on the examination.

18 (e) If an applicant fails the examination three times, the  
19 applicant must furnish evidence to the board of completed course  
20 work taken for credit with a passing grade in the areas of weakness  
21 before the applicant may again apply for examination.

22 SECTION 11. LICENSE. (a) A person who meets the licensing  
23 qualifications under this Act is entitled to receive a license  
24 certificate as a licensed dietitian.

25 (b) The licensee must:

26 (1) display the license certificate in an appropriate and  
27 public manner; and

1           (2) keep the department informed of his current address.

2           (c) A license certificate issued by the board is the  
3 property of the board and must be surrendered on demand.

4           SECTION 12. LICENSE EXPIRATION; RENEWAL. (a) A license is  
5 valid for one year from the date it is issued and may be renewed  
6 annually.

7           (b) The board of health by rule may adopt a system under  
8 which licenses expire on various dates during the year.

9           (c) A person may renew an unexpired license by paying the  
10 required renewal fee to the department before the expiration date  
11 of the license.

12           (d) If a person's license has been expired for not more than  
13 90 days, the person may renew the license by paying to the  
14 department the required renewal fee and a penalty fee that is  
15 one-half of the renewal fee.

16           (e) If a person's license has been expired for more than 90  
17 days but less than two years, the person may renew the license by  
18 paying to the department all unpaid renewal fees and a penalty fee  
19 that is equal to the renewal fee.

20           (f) If a person's license has been expired two years or  
21 more, the person may not renew the license. The person may obtain  
22 a new license by submitting to reexamination and complying with the  
23 current requirements and procedures for obtaining a license.

24           (g) The department shall notify each licensee in writing of  
25 the license expiration date at least 30 days before that date and  
26 shall obtain from the licensee a signed receipt confirming receipt  
27 of notification.

1           SECTION 13. PROVISIONAL LICENSE. (a) A license to use the  
2 title of provisional licensed dietitian may be issued by the board  
3 on the filing of an application, payment of an application fee, and  
4 the submission of evidence of the successful completion of the  
5 educational requirement under Section 9 of this Act. The initial  
6 application shall be signed by the supervising licensed dietitian.

7           (b) A provisional licensed dietitian shall be under the  
8 supervision and direction of a licensed dietitian.

9           (c) A person qualified for a provisional license under this  
10 Act is entitled to receive a license certificate as a provisional  
11 licensed dietitian. A provisional licensed dietitian must comply  
12 with Sections 11(b) and (c) of this Act.

13           (d) A provisional license is valid for one year from the  
14 date it is issued and may be renewed annually by the same  
15 procedures established for renewal under Section 12 of this Act if  
16 the application for renewal is signed by the supervising licensed  
17 dietitian.

18           SECTION 14. RECIPROCITY. On receipt of an application and  
19 application fee, the board shall waive the examination requirement  
20 for an applicant who, at the time of application:

21           (1) is registered by the Commission on Dietetic Registration  
22 as a registered dietitian; or

23           (2) holds a valid license or certificate as a licensed or  
24 registered dietitian issued by another state with which this state  
25 has a reciprocity agreement.

26           SECTION 15. PROHIBITED ACTS; PENALTY. (a) A person may not  
27 use the title or represent or imply that he has the title of

1 "licensed dietitian" or "provisional licensed dietitian," or use  
2 the letters "LD" or "PLD," and may not use any facsimile of those  
3 titles in any manner to indicate or imply that the person is a  
4 licensed dietitian or provisional licensed dietitian, unless the  
5 person holds an appropriate license issued under this Act.

6 (b) A person may not use the title or represent or imply  
7 that he has the title of "registered dietitian" or the letters  
8 "RD," and may not use any facsimile of the title in any manner to  
9 indicate or imply that the person is registered as a registered  
10 dietitian by the Commission on Dietetic Registration, unless the  
11 person is registered as a registered dietitian by the Commission on  
12 Dietetic Registration.

13 (c) A person commits an offense if the person knowingly or  
14 intentionally violates Subsection (a) or (b) of this section. An  
15 offense under this section is a Class B misdemeanor.

16 SECTION 16. COMPLAINT FILE AND STATUS. (a) The department  
17 shall keep an information file about each complaint filed with the  
18 board related to a licensee.

19 (b) If a written complaint is filed with the board relating  
20 to a licensee, the department, at least as frequently as quarterly,  
21 shall notify the parties to the complaint of the status of the  
22 complaint until final disposition of the complaint.

23 SECTION 17. REVOCATION AND SUSPENSION; EX PARTE  
24 COMMUNICATION. (a) The board shall revoke or suspend a license,  
25 probate a license suspension, or reprimand a licensee on proof of:

26 (1) any violation of this Act; or

27 (2) any violation of a rule or code of ethics adopted by the

board.

(b) If the board proposes to suspend or revoke a person's license, the person is entitled to a hearing before the board.

(c) Proceedings for the suspension or revocation of a license are governed by the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(d) A member or employee of the board or an employee of the department who carries out the functions of the board may not communicate directly or indirectly with a party to a proceeding pending before the board, or with the party's representative, unless notice and an opportunity to participate are given to each party to the proceeding if the member or employee proposes to make a decision, a finding of fact, or a conclusion of law in the proceeding.

SECTION 18. DUTIES OF BOARD OF HEALTH. For the purpose of implementing this Act, the board of health:

(1) shall request and receive any necessary assistance of state educational institutions or other state agencies;

(2) shall prepare information of consumer interest describing the regulatory functions of the board, the procedures by which consumer complaints are filed and resolved, and the profession of dietetics;

(3) shall prepare a registry of licensed dietitians and provisional licensed dietitians and make this information available to the general public, licensees, and appropriate state agencies; and

(4) may request the attorney general or the appropriate

1 county or district attorney to institute a suit to enjoin a  
2 violation of this Act in addition to any other action, proceeding,  
3 or remedy authorized by law.

4 SECTION 19. APPLICATION OF SUNSET ACT. The board is subject  
5 to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil  
6 Statutes). Unless continued in existence as provided by that Act,  
7 the board is abolished effective September 1, 1991.

8 SECTION 20. INITIAL BOARD APPOINTMENTS. (a) In making the  
9 initial appointments to the board, the governor shall designate  
10 three members, including one public member, for terms expiring  
11 February 1, 1989, three members, including one public member, for  
12 terms expiring February 1, 1987, and three members, including one  
13 public member, for terms expiring February 1, 1985.

14 (b) Following the fourth anniversary date of the effective  
15 date of this Act, a licensee eligible for appointment as a  
16 professional board member must have been a licensed dietitian under  
17 this Act for at least three years before his appointment to the  
18 board. In making the initial six professional appointments to the  
19 board, the governor shall appoint six persons otherwise qualified  
20 under this Act who also have been for 60 months immediately  
21 preceding their appointment, and who presently are, registered as  
22 registered dietitians by the Commission on Dietetic Registration.

23 SECTION 21. INITIAL LICENSING PERIOD. For one year  
24 beginning on the effective date of this Act, the board shall waive  
25 the examination requirement under this Act and grant a license  
26 under this Act to any person who:

27 (1) is registered by the Commission on Dietetic Registration

1 as a registered dietitian on the effective date of this Act or who  
2 becomes so registered before the one year anniversary of the  
3 effective date of this Act; or

4 (2) possesses a baccalaureate or postbaccalaureate degree,  
5 has satisfactorily completed appropriate academic requirements in  
6 the field of human nutrition, food and nutrition, dietetics, or  
7 food systems management or a directly related field approved by the  
8 board, and either has satisfactorily completed an internship or  
9 preplanned professional experience program of not less than six  
10 months approved by the board, or has been employed in the field of  
11 dietetics for three of the 10 years immediately preceding the  
12 effective date of this Act.

13 SECTION 22. EFFECTIVE DATE. This Act takes effect September  
14 1, 1983.

15 SECTION 23. EMERGENCY. The importance of this legislation  
16 and the crowded condition of the calendars in both houses create an  
17 emergency and an imperative public necessity that the  
18 constitutional rule requiring bills to be read on three several  
19 days in each house be suspended, and this rule is hereby suspended.

By: Glasgow, et al.

S.B. No. 671

(In the Senate - Filed March 2, 1983; March 3, 1983, read first time and referred to Committee on Health and Human Resources; April 6, 1983, reported adversely, with favorable Committee Substitute; April 6, 1983, sent to printer.)

COMMITTEE SUBSTITUTE FOR S.B. No. 671

By: Uribe

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(3) do not own, control, or have a direct or indirect interest in more than 10 percent of a business entity that provides health-care services or that sells, manufactures, or distributes health-care supplies or equipment.

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19 addition to other duties prescribed by this Act and by the  
20 department, the executive secretary shall:

21 (1) keep full and accurate minutes of the transactions and  
22 proceedings of the board;

23 (2) be the custodian of the files and records of the board;

24 (3) prepare and recommend to the board plans and procedures  
25 necessary to implement the purposes and objectives of this Act,  
26 including rules and proposals on administrative procedures  
27 consistent with this Act;

28 (4) exercise general supervision over persons employed by  
29 the department in the administration of this Act;

30 (5) be responsible for the investigation of complaints and  
31 for the presentation of formal complaints;

32 (6) attend all meetings of the board as a nonvoting  
33 participant; and

34 (7) handle the correspondence of the board and obtain,  
35 assemble, or prepare the reports and information that the board may  
36 direct or authorize.

37 SECTION 8. FEES; FUNDS; ANNUAL REPORT; AUDIT. (a) After  
38 consultation with the commissioner or the department, the board  
39 shall set the fees imposed by this Act in amounts that are adequate  
40 to collect sufficient revenue to meet the expenses necessary to  
41 administer this Act without accumulating an unnecessary surplus in  
42 the Licensed Dietitian Act fund created by this section.

43 (b) The department shall receive and account for funds  
44 derived under this Act. The funds shall be deposited in the State  
45 Treasury to the credit of a special fund to be known as the  
46 Licensed Dietitian Act fund to be used only for the administration  
47 of this Act.

48 (c) Not later than January 1 each year, the department shall  
49 make a written report to the governor, lieutenant governor, and  
50 speaker of the house of representatives accounting for all funds  
51 received and disbursed by the board or the department for the  
52 administration of this Act during the preceding year.

53 (d) During each fiscal year, the State Auditor shall audit  
54 the financial transactions of the board or the department in  
55 relation to the administration of this Act.

56 SECTION 9. APPLICANT QUALIFICATIONS; APPLICATION  
57 REVIEW. (a) An applicant for a dietitian license must submit a  
58 sworn application, accompanied by the application fee.

59 (b) The board shall prescribe the form of the application  
60 and may by rule establish dates by which applications and fees must  
61 be received. These rules must not be inconsistent with present  
62 rules of the department related to application dates of other  
63 licenses.

64 (c) To qualify for the licensing examination under this Act,  
65 the applicant must:

66 (1) possess a baccalaureate or postbaccalaureate degree with  
67 a major course of study in human nutrition, food and nutrition,  
68 dietetics, or food systems management or an equivalent major course  
69 of study approved by the board; and

70 (2) have completed an internship or preplanned professional

1 experience program approved by the board.

2 (d) Not later than the 45th day after the receipt of a  
3 properly submitted and timely application and not later than the  
4 30th day before the next examination date, the department shall  
5 notify an applicant in writing that his application and any other  
6 relevant evidence pertaining to applicant qualifications  
7 established by the board by rule has been received and  
8 investigated. The notice shall state whether the application and  
9 other evidence submitted have qualified the applicant for  
10 examination. If the applicant has not qualified for examination,  
11 the notice shall state the reasons for the lack of qualification.

12 SECTION 10. EXAMINATION. (a) To qualify for a license  
13 under this Act, an applicant must pass a competency examination.  
14 Examinations shall be prepared or approved by the board and  
15 administered to qualified applicants at least twice each calendar  
16 year.

17 (b) An examination prescribed by the board may be or may  
18 include an examination given by the Commission on Dietetic  
19 Registration or by a national or state testing service in lieu of  
20 an examination prepared by the board.

21 (c) Not later than the 30th day after the day on which a  
22 licensing examination is administered under this Act, the  
23 department shall notify each examinee of the results of the  
24 examination. If an examination is graded or reviewed by a national  
25 or state testing service, the department shall notify examinees of  
26 the results of the examination within two weeks after the day the  
27 department receives the results from the testing service. If the  
28 notice of the examination results will be delayed for more than 90  
29 days after the examination date, the department shall notify the  
30 examinee of the reason for the delay before the 90th day.

31 (d) If requested in writing by a person who fails the  
32 licensing examination, the department shall furnish the person with  
33 an analysis of the person's performance on the examination.

34 (e) If an applicant fails the examination three times, the  
35 applicant must furnish evidence to the board of completed course  
36 work taken for credit with a passing grade in the areas of weakness  
37 before the applicant may again apply for examination.

38 SECTION 11. LICENSE. (a) A person who meets the licensing  
39 qualifications under this Act is entitled to receive a license  
40 certificate as a licensed dietitian.

41 (b) The licensee must:

42 (1) display the license certificate in an appropriate and  
43 public manner; and

44 (2) keep the department informed of his current address.

45 (c) A license certificate issued by the board is the  
46 property of the board and must be surrendered on demand.

47 SECTION 12. LICENSE EXPIRATION; RENEWAL. (a) A license is  
48 valid for one year from the date it is issued and may be renewed  
49 annually.

50 (b) The board of health by rule may adopt a system under  
51 which licenses expire on various dates during the year.

52 (c) A person may renew an unexpired license by paying the  
53 required renewal fee to the department before the expiration date  
54 of the license.

55 (d) If a person's license has been expired for not more than  
56 90 days, the person may renew the license by paying to the  
57 department the required renewal fee and a penalty fee that is  
58 one-half of the renewal fee.

59 (e) If a person's license has been expired for more than 90  
60 days but less than two years, the person may renew the license by  
61 paying to the department all unpaid renewal fees and a penalty fee  
62 that is equal to the renewal fee.

63 (f) If a person's license has been expired two years or  
64 more, the person may not renew the license. The person may obtain  
65 a new license by submitting to reexamination and complying with the  
66 current requirements and procedures for obtaining a license.

67 (g) The department shall notify each licensee in writing of  
68 the license expiration date at least 30 days before that date and  
69 shall obtain from the licensee a signed receipt confirming receipt  
70 of notification.

1 SECTION 13. PROVISIONAL LICENSE. (a) A license to use the  
2 title of provisional licensed dietitian may be issued by the board  
3 on the filing of an application, payment of an application fee, and  
4 the submission of evidence of the successful completion of the  
5 educational requirement under Section 9 of this Act. The initial  
6 application shall be signed by the supervising licensed dietitian.

7 (b) A provisional licensed dietitian shall be under the  
8 supervision and direction of a licensed dietitian.

9 (c) A person qualified for a provisional license under this  
10 Act is entitled to receive a license certificate as a provisional  
11 licensed dietitian. A provisional licensed dietitian must comply  
12 with Subsections (b) and (c) of Section 11 of this Act.

13 (d) A provisional license is valid for one year from the  
14 date it is issued and may be renewed annually by the same  
15 procedures established for renewal under Section 12 of this Act if  
16 the application for renewal is signed by the supervising licensed  
17 dietitian.

18 SECTION 14. RECIPROCITY. On receipt of an application and  
19 application fee, the board shall waive the examination requirement  
20 for an applicant who, at the time of application:

21 (1) is registered by the Commission on Dietetic Registration  
22 as a registered dietitian; or

23 (2) holds a valid license or certificate as a licensed or  
24 registered dietitian issued by another state with which this state  
25 has a reciprocity agreement.

26 SECTION 15. PROHIBITED ACTS; PENALTY. (a) A person may not  
27 use the title or represent or imply that he has the title of  
28 "licensed dietitian" or "provisional licensed dietitian" or use the  
29 letters "LD" or "PLD" and may not use any facsimile of those titles  
30 in any manner to indicate or imply that the person is a licensed  
31 dietitian or provisional licensed dietitian, unless the person  
32 holds an appropriate license issued under this Act.

33 (b) A person may not use the title or represent or imply  
34 that he has the title of "registered dietitian" or the letters "RD"  
35 and may not use any facsimile of the title in any manner to  
36 indicate or imply that the person is registered as a registered  
37 dietitian by the Commission on Dietetic Registration, unless the  
38 person is registered as a registered dietitian by the Commission on  
39 Dietetic Registration.

40 (c) A person commits an offense if the person knowingly or  
41 intentionally violates Subsection (a) or (b) of this section. An  
42 offense under this section is a Class B misdemeanor.

43 SECTION 16. COMPLAINT FILE AND STATUS. (a) The department  
44 shall keep an information file about each complaint filed with the  
45 board related to a licensee.

46 (b) If a written complaint is filed with the board relating  
47 to a licensee, the department, at least as frequently as quarterly,  
48 shall notify the parties to the complaint of the status of the  
49 complaint until final disposition of the complaint.

50 SECTION 17. REVOCATION AND SUSPENSION; EX PARTE  
51 COMMUNICATION. (a) The board shall revoke or suspend a license,  
52 probate a license suspension, or reprimand a licensee on proof of:

53 (1) any violation of this Act; or

54 (2) any violation of a rule or code of ethics adopted by the  
55 board.

56 (b) If the board proposes to suspend or revoke a person's  
57 license, the person is entitled to a hearing before the board.

58 (c) Proceedings for the suspension or revocation of a  
59 license are governed by the Administrative Procedure and Texas  
60 Register Act, as amended (Article 6252-13a, Vernon's Texas Civil  
61 Statutes).

62 (d) A member or employee of the board or an employee of the  
63 department who carries out the functions of the board may not  
64 communicate directly or indirectly with a party to a proceeding  
65 pending before the board or with the party's representative, unless  
66 notice and an opportunity to participate are given to each party to  
67 the proceeding if the member or employee proposes to make a  
68 decision, a finding of fact, or a conclusion of law in the  
69 proceeding.

70 SECTION 18. DUTIES OF BOARD OF HEALTH. For the purpose of

1 implementing this Act, the board of health:

2 (1) shall request and receive any necessary assistance of  
3 state educational institutions or other state agencies;

4 (2) shall prepare information of consumer interest  
5 describing the regulatory functions of the board, the procedures by  
6 which consumer complaints are filed and resolved, and the  
7 profession of dietetics;

8 (3) shall prepare a registry of licensed dietitians and  
9 provisional licensed dietitians and make this information available  
10 to the general public, licensees, and appropriate state agencies;  
11 and

12 (4) may request the attorney general or the appropriate  
13 county or district attorney to institute a suit to enjoin a  
14 violation of this Act in addition to any other action, proceeding,  
15 or remedy authorized by law.

16 SECTION 19. APPLICATION OF SUNSET ACT. The board is subject  
17 to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas  
18 Civil Statutes). Unless continued in existence as provided by that  
19 Act, the board is abolished effective September 1, 1991.

20 SECTION 20. INITIAL BOARD APPOINTMENTS. (a) In making the  
21 initial appointments to the board, the governor shall designate  
22 three members, including one public member, for terms expiring  
23 September 1, 1989, three members, including one public member, for  
24 terms expiring September 1, 1987, and three members, including one  
25 public member, for terms expiring September 1, 1985.

26 (b) In making the initial six professional appointments to  
27 the board, the governor shall appoint six persons otherwise  
28 qualified under this Act who also have been for 60 months  
29 immediately preceding their appointment and who presently are  
30 registered as registered dietitians by the Commission on Dietetic  
31 Registration.

32 SECTION 21. INITIAL LICENSING PERIOD. For one year  
33 beginning on the effective date of this Act, the board shall waive  
34 the examination requirement under this Act and grant a license  
35 under this Act to any person who:

36 (1) is registered by the Commission on Dietetic Registration  
37 as a registered dietitian on the effective date of this Act or who  
38 becomes so registered before the one year anniversary of the  
39 effective date of this Act; or

40 (2) possesses a baccalaureate or postbaccalaureate degree,  
41 has satisfactorily completed appropriate academic requirements in  
42 the field of human nutrition, food and nutrition, dietetics, or  
43 food systems management or a directly related field approved by the  
44 board, and either has satisfactorily completed an internship or  
45 preplanned professional experience program of not less than six  
46 months approved by the board or has been employed in the field of  
47 dietetics for three of the 10 years immediately preceding the  
48 effective date of this Act.

49 SECTION 22. EFFECTIVE DATE. This Act takes effect  
50 September 1, 1983.

51 SECTION 23. The importance of this legislation and the  
52 crowded condition of the calendars in both houses create an  
53 emergency and an imperative public necessity that the  
54 constitutional rule requiring bills to be read on three several  
55 days in each house be suspended, and this rule is hereby suspended.

\* \* \* \* \*

Austin, Texas  
April 6, 1983

Hon. William P. Hobby  
President of the Senate

Sir:

We, your Committee on Health and Human Resources to which was referred S.B. No. 671, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that the Committee Substitute adopted in lieu thereof do pass and be printed.

Brooks, Chairman

## BILL ANALYSIS

BY: GLASGOW, HARRIS, WASHINGTON

S.B. 671

### Background Information:

Due to increasing societal interest in health issues and behaviors, there has been a proliferation in the number of persons seeking and offering nutritional advice. Currently in Texas no statewide standards exist for the certification or licensure of dietitians. Therefore, no mechanism exists by which the public easily can distinguish self-proclaimed nutritionists from professionals with academic degrees and training in nutrition-related fields.

In Texas, there are approximately 2600 dietitians and an internship program. These individuals are employed in a variety of health care, education and business settings.

### What the Bill Proposes to Do:

Establishes the Licensed Dietitian Act and the Texas State Board of Examiners of Dietitians; specifies board composition, appointments, officer elections, duties, and powers; directs the Department of Health to provide personnel, facilities, and services necessary for the implementation of the Act; enables board to set fees and directs the department to receive and account for funds derived under the Act; requires fund to be deposited in the state treasury to the credit of the Licensed Dietitian Act and an annual audit to be conducted; specifies application procedures and requirements; establishes license certificates and provisional licenses; establishes complaint protocol and prohibited acts, and penalties; enables board to revoke or suspend a license and establishes such procedures; subjects board to the Sunset Act and the Administrative Procedure and Texas Register Act; authorizes board to waive the examination in specified situations.

Section by Section Analysis:

SECTION 1. SHORT TITLE. Entitles Act the Licensed Dietitian Act.

SECTION 2. DEFINITIONS.

SECTION 3. BOARD; MEMBERSHIP. Establishes the Texas State Board of Examiners of Dietitians; specifies board composition, appointments, terms of office.

SECTION 4. GROUNDS FOR REMOVAL. Lists grounds for removal of board members; maintains board's actions taken during existence of the grounds for removal as valid.

SECTION 5. OFFICERS; MEETINGS; QUORUM; EXPENSES. Directs board to elect chairman and vice-chairman within specified time period; requires at least two regular meetings annually; directs board to establish rules regarding frequency of meetings; defines quorum; entitles board members to per diem at rate set by the Legislature and to compensation for transportation expenses as provided by the General Appropriations Act; prohibits board member from receiving fixed salary for his or her services.

SECTION 6. POWERS AND DUTIES OF BOARD. Gives the board rulemaking authority; requires board's procedural rules to be consistent with similar existing rules and procedures of the Board of Health or the department; directs the board to:

1. Adopt and publish a code of ethics and an official seal.
2. Establish qualifications and fitness of applicants for licenses, renewal of licenses, and reciprocal licenses;
3. Revoke, suspend, or deny licenses, probate license suspension, or reprimand a licensee for specified violations.
4. Spend funds necessary for administration of assigned duties.
5. Establish reasonable and necessary fees; and
6. Comply with the open meetings law and the Administrative Procedure and Texas Register Act; specifies issues which may not be included in the board's rules.

SECTION 7. ADMINISTRATIVE FUNCTIONS; PERSONNEL. Establishes that the department shall provide personnel, facilities, and services necessary for implementation and administration of this



Act; directs commissioner to designate an executive secretary of the board; lists executive secretary's duties.

SECTION 8. FEES; FUNDS; ANNUAL REPORT; AUDIT. Directs board to set fees after consultation with commissioner or department; directs department to receive and account for funds derived under this Act; requires funds to be deposited in the state treasury in a special fund known as the Licensed Dietitian Act; requires the department to submit an annual financial report to the Governor, Lieutenant Governor, and Speaker of the House; requires financial transactions relating to this Act to be audited annually by the state auditor.

SECTION 9. APPLICANT QUALIFICATIONS; APPLICATION REVIEW. Requires applicant for a dietitian license to submit sworn application and fee; directs board to prescribe application form; gives the board authority to make rules establishing fee and application deadlines; specifies that in order for an applicant to qualify for the licensing examination, the applicant must possess a baccalaureate or postbaccalaureate degree in a nutrition-related field and have completed an internship and experience program approved by the board; specifies procedure by which applicants shall be notified of whether they are qualified for examinations.

SECTION 10. EXAMINATION. Requires applicant to pass a competency examination before qualifying for a license; specifies protocol for development and grading of examination, notification of examination results, and re-examination.

SECTION 11. LICENSE. Entitles qualified persons to receive license certificate as a licensed dietitian; requires licensee to display license certificate, to inform department of his or her current address, and surrender license certificate on demand by the board.

SECTION 12. LICENSE EXPIRATION; RENEWAL. Limits license validity to one year; authorizes Board of Health to adopt by rule a system under which licenses expire on varying dates; specifies license renewal procedures.

SECTION 13. PROVISIONAL LICENSE. Authorizes board to issue provisional license upon application, payment of fee, and completion of educational requirement; requires provisional licensed dietitian to be supervised by a licensed dietitian; entitles qualified persons to receive license certificate as a provisional licensed dietitian; requires provisional licensed dietitian to comply with Sections 11(b) and (c) of this Act; establishes that provisional license is valid for one year from date of issuance and may be renewed annually by same procedures as those specified in Section 12.

SECTION 14. RECIPROCITY. Specifies conditions under which the board shall waive examination requirement.

SECTION 15. PROHIBITED ACTS; PENALTY. Establishes Class B misdemeanor offense for persons representing themselves as licensed or registered dietitians without appropriate licenses or registration.

SECTION 16. COMPLAINT FILE AND STATUS. Requires board to keep an information file on complaints related to licensees; directs department to notify relevant parties of the status of the complaint at least quarterly.

SECTION 17. REVOCATION AND SUSPENSION; EX PARTE COMMUNICATION. Directs board to revoke or suspend a license, probate a license suspension, or reprimand a licensee upon violation of this Act or rules or codes adopted by the board; entitles the person whose license the board proposes to revoke or suspend to a hearing; establishes that proceedings for the suspension or revocation of a license are governed by the Administrative Procedure and Texas Register Act; prohibits communication between specified persons in situations in which a decision, finding of fact, or conclusion of law in the proceeding is being proposed, unless notice and an opportunity to participate are given.

SECTION 18. DUTIES OF BOARD OF HEALTH. Lists the duties of the Board of Health in the implementation of this Act.

SECTION 19. APPLICATION OF SUNSET ACT. Subject board to the Sunset Act with a termination date of September 1, 1991.

SECTION 20. INITIAL BOARD APPOINTMENTS. Specifies procedure by which initial appointment shall be made.

SECTION 21. INITIAL LICENSING PERIOD. Authorizes the board to waive the examination requirement for the first year of the Act for persons meeting specified conditions.

SECTION 22. EFFECTIVE DATE. Cites Act's effective date as September 1, 1983.

SECTION 23. Emergency clause.

Rulemaking Authority:

It is the committee's opinion that rulemaking authority is granted to the Board of Health in Section 12(b) and to the State Board of Examiners of Dietitians in Sections 5(b), 6(a) and 9(b) of this bill.

Fiscal Impact:

The fiscal implication of this bill was considered in the preparation of the fiscal note by the Legislative Budget Board.

## BILL ANALYSIS

BY: URIBE

C.S.S.B. 671

BY: Glasgow, Harris, Washington

S.B. 671

### Background Information:

Due to increasing societal interest in health issues and behaviors, there has been a proliferation in the number of persons seeking and offering nutritional advice. Currently in Texas no statewide standards exist for the certification or licensure of dietitians. Therefore, no mechanism exists by which the public easily can distinguish self-proclaimed nutritionists from professionals with academic degrees and training in nutrition-related fields.

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SECTION 5. OFFICERS; MEETINGS; QUORUM; EXPENSES. Directs board to elect chairman and vice-chairman within specified time period; requires at least two regular meetings annually; directs board to establish rules regarding frequency of meetings; defines quorum; entitles board members to per diem at rate set by the Legislature and to compensation for transportation expenses as provided by the General Appropriations Act; prohibits board member from receiving fixed salary for his or her services.

SECTION 6. POWERS AND DUTIES OF BOARD. Gives the board rulemaking authority; requires board's procedural rules to be consistent with similar existing rules and procedures of the Board of Health or the department; directs the board to:

1. Adopt and publish a code of ethics and an official seal.
2. Establish qualifications and fitness of applicants for licenses, renewal of licenses, and reciprocal licenses;
3. Revoke, suspend, or deny licenses, probate license suspension, or reprimand a licensee for specified violations.
4. Spend funds necessary for administration of assigned duties.
5. Establish reasonable and necessary fees; and 6. Comply with the open meetings law and the Administrative Procedure and Texas Register Act; specifies issues which may not be included in the board's rules.

SECTION 7. ADMINISTRATIVE FUNCTIONS; PERSONNEL. Establishes that the department shall provide personnel, facilities, and services necessary for implementation and administration of this

Act; directs commissioner to designate an executive secretary of the board; lists executive secretary's duties.

SECTION 8. FEES; FUNDS; ANNUAL REPORT; AUDIT. Directs board to set fees after consultation with commissioner or department; directs department to receive and account for funds derived under this Act; requires funds to be deposited in the state treasury in a special fund known as the Licensed Dietitian Act; requires the department to submit an annual financial report to the Governor, Lieutenant Governor, and Speaker of the House; requires financial transactions relating to this Act to be audited annually by the state auditor.

SECTION 9. APPLICANT QUALIFICATIONS; APPLICATION REVIEW. Requires applicant for a dietitian license to submit sworn application and fee; directs board to prescribe application form; gives the board authority to make rules establishing fee and application deadlines; specifies that in order for an applicant to qualify for the licensing examination, the applicant must possess a baccalaureate or postbaccalaureate degree in a nutrition-related field and have completed an internship and experience program approved by the board; specifies procedure by which applicants shall be notified of whether they are qualified for examinations.

SECTION 10. EXAMINATION. Requires applicant to pass a competency examination before qualifying for a license; specifies protocol for development and grading of examination, notification of examination results, and re-examination.

SECTION 11. LICENSE. Entitles qualified persons to receive license certificate as a licensed dietitian; requires licensee to display license certificate, to inform department of his or her current address, and surrender license certificate on demand by the board.

SECTION 12. LICENSE EXPIRATION; RENEWAL. Limits license validity to one year; authorizes Board of Health to adopt by rule a system under which licenses expire on varying dates; specifies license renewal procedures.

SECTION 13. PROVISIONAL LICENSE. Authorizes board to issue provisional license upon application, payment of fee, and completion of educational requirement; requires provisional licensed dietitian to be supervised by a licensed dietitian; entitles qualified persons to receive license certificate as a provisional licensed dietitian; requires provisional licensed dietitian to comply with Sections 11(b) and (c) of this Act; establishes that provisional license is valid for one year from date of issuance and may be renewed annually by same procedures as those specified in Section 12.

SECTION 14. RECIPROCITY. Specifies conditions under which the board shall waive examination requirement.

SECTION 15. PROHIBITED ACTS; PENALTY. Establishes Class B misdemeanor offense for persons representing themselves as licensed or registered dietitians without appropriate licenses or registration.

SECTION 16. COMPLAINT FILE AND STATUS. Requires board to keep an information file on complaints related to licensees; directs department to notify relevant parties of the status of the complaint at least quarterly.

SECTION 17. REVOCATION AND SUSPENSION; EX PARTE COMMUNICATION. Directs board to revoke or suspend a license, probate a license suspension, or reprimand a licensee upon violation of this Act or rules or codes adopted by the board; entitles the person whose license the board proposes to revoke or suspend to a hearing; establishes that proceedings for the suspension or revocation of a license are governed by the Administrative Procedure and Texas Register Act; prohibits communication between specified persons in situations in which a decision, finding of fact, or conclusion of law in the proceeding is being proposed, unless notice and an opportunity to participate are given.

SECTION 18. DUTIES OF BOARD OF HEALTH. Lists the duties of the Board of Health in the implementation of this Act.

SECTION 19. APPLICATION OF SUNSET ACT. Subject board to the Sunset Act with a termination date of September 1, 1991.

SECTION 20. INITIAL BOARD APPOINTMENTS. Specifies procedure by which initial appointment shall be made.

SECTION 21. INITIAL LICENSING PERIOD. Authorizes the board to waive the examination requirement for the first year of the Act for persons meeting specified conditions.

SECTION 22. EFFECTIVE DATE. Cites Act's effective date as September 1, 1983.

SECTION 23. Emergency clause.

Rulemaking Authority:

It is the committee's opinion that rulemaking authority is granted to the Board of Health in Section 12(b) and to the State Board of Examiners of Dietitians in Sections 5(b), 6(a) and 9(b) of this bill.

Fiscal Impact:

The fiscal implication of this bill was considered in the preparation of the fiscal note by the Legislative Budget Board.



# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

March 18, 1983

Honorable Chet Brooks, Chairman  
Committee on Health and Human Resources  
Senate Chamber  
Austin, Texas

In Re: Senate Bill No. 671  
By: Glasgow, et al

Sir:

In response to your request for a Fiscal Note on Senate Bill No. 671 (relating to the regulation of dietitians; providing a penalty) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would establish the Texas State Board of Examiners of Dietitians. The administrative services for the board would be provided by the Department of Health. Fees for examination and licensure would be set by the board in amounts sufficient to meet expenses incurred in administering provisions of the bill. Such fees would be deposited in a special fund to be called the Licensed Dietitian Act Fund. It is anticipated that 2,500 to 3,000 persons would apply for licensure.

The probable fiscal implication of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Probable Revenue Gain to the Licensed Dietitians Act Fund</u>	<u>Probable Cost to the Licensed Dietitians Act Fund</u>	<u>Change in Number of State Employees from FY 1983</u>
1984	\$88,210	\$88,210	+ 2
1985	73,808	73,808	+ 2
1986	73,808	73,808	+ 2
1987	73,808	73,808	+ 2
1988	73,808	73,808	+ 2

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

No fiscal implication to units of local government is anticipated.

  
Jim Oliver  
Director

Source: Department of Health;  
LBB Staff: JO, JH, GR, BL

K  
2

C.S.C.B.  
1-7  
under  
5-16

By

*W. Miller*

C.S.S.B. No. 671

A BILL TO BE ENTITLED

AN ACT

*and to certain duties of  
the Board of Health*

~~relating to the regulation of dietitians; providing a penalty~~

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. SHORT TITLE. This act may be cited as the  
Licensed Dietitian Act.

SECTION 2. DEFINITIONS. In this Act:

(1) "Board of health" means the Texas Board of Health.

(2) "Department" means the Texas Department of Health.

(3) "Commissioner" means the commissioner of health.

(4) "Board" means the Texas State Board of Examiners of  
Dietitians.

(5) "Commission on Dietetic Registration" means the  
Commission on Dietetic Registration that is a member of the  
National Commission on Health Certifying Agencies.

(6) "Dietetics" means the professional discipline of  
applying and integrating scientific principles of nutrition under  
different health, social, cultural, physical, psychological, and  
economic conditions to the proper nourishment, care, and education  
of individuals or groups throughout the life cycle. The term <sup>1/2</sup>  
includes without limitation the development, <sup>a</sup>mangement, and  
provision of nutritional services.

(7) "Licensed dietitian" means a person licensed under this  
Act.

(8) "Provisional licensed dietitian" means a person

4/6/83  
4/12/83 5/28/83

1 provisionally licensed under this Act.

2 (9) "Degree" means a degree received from a college or  
3 university that was regionally accredited at the time the degree  
4 was conferred.

5 SECTION 3. BOARD; MEMBERSHIP. (a) The Texas State Board of  
6 Examiners of Dietitians is created.

7 (b) The board is composed of nine members. Three members  
8 must be members of the general public. Six members must be  
9 dietitians licensed under this Act.

10 (c) The governor, with the advice and consent of the Senate,  
11 shall appoint the board members, who shall serve staggered terms of  
12 six years with two terms beginning September 1 of each odd-numbered  
13 year.

14 (d) The professional discipline of dietetics includes five  
15 primary areas of expertise: clinical, educational, management,  
16 consultation, and community. In making the six professional  
17 appointments to the board, the governor shall consider and attempt  
18 to accomplish a continuing balance of representation among these  
19 areas of expertise. Following the fourth anniversary date of the  
20 effective date of this Act, a licensee eligible for appointment as a  
21 professional board member must have been a licensed dietitian<sup>2</sup>/<sub>3</sub> under  
22 this Act for at least three years before his appointment to the board.

23 (e) A person is eligible for appointment as a public member  
24 if the person and the person's spouse:

25 (1) are not licensed by an occupational regulatory agency in  
26 the field of health care;

27 (2) are not employed by and do not participate in the

1 management of an agency or business entity that provides  
2 health-care services or that sells, manufactures, or distributes  
3 health-care supplies or equipment; and

4 (3) do not own, control, or have a direct or indirect  
5 interest in more than 10 percent of a business entity that provides  
6 health-care services or that sells, manufactures, or distributes  
7 health-care supplies or equipment.

8 (f) An appointment to the board shall be made without regard  
9 to the race, creed, sex, religion, or national origin of the <sup>1/2</sup>  
10 appointee.

11 (g) A member or employee of the board may not be an officer,  
12 employee, or paid consultant of a trade association in the field of  
13 health care. ~~A member or employee of the board may not be related~~  
14 ~~within the second degree of affinity or consanguinity to a person~~  
15 ~~who is an officer, employee, or paid consultant of a trade~~  
16 ~~association in the dietetic industry~~

17 (h) A person who is required to register as a lobbyist under  
18 Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, <sup>as amended</sup>  
19 (Article 6252-9c, Vernon's Texas Civil Statutes), in a health-  
20 related area may not serve as a member of the board or act as the  
21 general counsel to the board.<sup>3/4</sup>

22 SECTION 4. GROUNDS FOR REMOVAL. (a) It is a ground for  
23 removal from the board if a member:

24 (1) does not have at the time of appointment the  
25 qualifications required for appointment to the board;

26 (2) does not maintain during service on the board the  
27 qualifications required for appointment to the board; or

1 (3) violates a prohibition established by this Act.

2 (b) If a ground for removal of a member from the board  
3 exists, the board's actions taken during the existence of the  
4 ground for removal are valid.

5 SECTION 5. OFFICERS; MEETINGS; QUORUM; EXPENSES. (a) Not  
6 later than the 30th day after the day its new members are appointed  
7 by the governor, the board shall meet to elect a chairman and  
8 vice-chairman who shall hold office according to rules adopted by  
9 the board.

10 (b) The board shall hold at least two regular meetings each  
11 year as provided by rules adopted by the board. The rules may not  
12 be inconsistent with present rules of the department relating to  
13 meetings of boards.

14 (c) A majority of the members constitutes a quorum.

15 (d) Each member of the board is entitled to a per diem  
16 payment at the rate set by the legislature for state employees in  
17 the General Appropriations Act for each day that the member engages  
18 in the business of the board. A member is entitled to compensation  
19 for transportation expenses as provided by the General  
20 Appropriations Act. A board member may not receive a fixed salary<sup>4</sup>/<sub>5</sub>  
21 for his services.

22 SECTION 6. POWERS AND DUTIES OF BOARD. (a) The board may  
23 adopt rules consistent with this Act. In adopting rules, the board  
24 shall consider the rules and procedures of the board of health and  
25 the department and shall adopt procedural rules not inconsistent  
26 with similar existing rules and procedures of the board of health  
27 or the department.

1 (b) The board shall:

2 (1) adopt and publish a code of ethics and adopt an official  
3 seal;

4 (2) establish the qualifications and fitness of applicants  
5 for licenses, renewal of licenses, and reciprocal licenses;

6 (3) revoke, suspend, or deny a license, probate a license  
7 suspension, or reprimand a licensee for a violation of this Act,  
8 the code of ethics, or the rules of the board;

9 (4) spend funds necessary for the proper administration of  
10 its assigned duties;

11 (5) establish reasonable and necessary fees for the  
12 administration and implementation of this Act; and

13 (6) comply with the open meetings law, Chapter 271, Acts of  
14 the 60th Legislature, Regular Session, 1967, <sup>as amended</sup> (Article 6252-17,  
15 Vernon's Texas Civil Statutes), and the Administrative Procedure  
16 and Texas Register Act, <sup>as amended</sup> (Article 6252-13a, Vernon's Texas Civil  
17 Statutes).

18 (c) The board may not adopt rules restricting competitive  
19 bidding or advertising by a person regulated by the board except to <sup>5/6</sup>  
20 prohibit false, misleading, or deceptive practices. The board may  
21 not include in its rules to prohibit false, misleading, or  
22 deceptive practices by a person regulated by the board a rule that:

23 (1) restricts the person's use of any medium for  
24 advertising;

25 (2) restricts the person's personal appearance or use of his <sup>2/3</sup>  
26 personal voice in an advertisement;

27 (3) relates to the size or duration of any advertisement by

1 the person; or

2 (4) restricts the person's advertisement under a trade name.

3 SECTION 7. ADMINISTRATIVE FUNCTIONS; PERSONNEL. (a) The  
4 basic personnel and necessary facilities that are required to  
5 administer this Act shall be the personnel and facilities of the  
6 department. The department personnel shall act as the agents of  
7 the board. If necessary to the administration or implementation of  
8 this Act, the department <sup>b</sup> by agreement <sup>b</sup> may secure <sup>b</sup> and provide for  
9 compensation for <sup>b</sup> services that it considers necessary and may  
10 employ and compensate <sup>b</sup> within available appropriations <sup>b</sup>  
11 professional consultants, technical assistants, and employees on a  
12 full-time or part-time basis.

13 (b) The commissioner shall designate an employee to serve as  
14 executive secretary of the board. The executive secretary must be  
15 an employee of the department. The executive secretary shall be  
16 the administrator of the licensing activities for the board. In  
17 addition to other duties prescribed by this Act and by the  
18 department, the executive secretary shall: <sup>6/7</sup>

19 (1) keep full and accurate minutes of the transactions and  
20 proceedings of the board;

21 (2) be the custodian of the files and records of the board;

22 (3) prepare and recommend to the board plans and procedures  
23 necessary to implement the purposes and objectives of this Act,  
24 including rules and proposals on administrative procedures  
25 consistent with this Act;

26 (4) exercise general supervision over persons employed by  
27 the department in the administration of this Act;

1 (5) be responsible for the investigation of complaints and  
2 for the presentation of formal complaints;

3 (6) attend all meetings of the board as a nonvoting  
4 participant; and

5 (7) handle the correspondence of the board<sup>6</sup> and obtain,  
6 assemble, or prepare the reports and information that the board may  
7 direct or authorize.

8 SECTION 8. FEES; FUNDS; ANNUAL REPORT; AUDIT. (a) After  
9 consultation with the commissioner or the department, the board  
10 shall set the fees imposed by this Act in amounts that are adequate  
11 to collect sufficient revenue to meet the expenses necessary to  
12 administer this Act without accumulating an unnecessary surplus in  
13 the Licensed Dietitian Act fund created by this section.

14 (b) The department shall receive and account for funds  
15 derived under this Act. The funds shall be deposited in the state  
16 treasury to the credit of a special fund to be known as the  
17 Licensed Dietitian Act fund to be used only for the administration<sup>78</sup>  
18 of this Act.

19 (c) Not later than January 1 each year, the department shall  
20 make a written report to the governor, lieutenant governor, and  
21 speaker of the house of representatives accounting for all funds  
22 received and disbursed by the board or the department for the  
23 administration of this Act during the preceding year.

24 (d) During each fiscal year, the state auditor shall audit<sup>///</sup>  
25 the financial transactions of the board or the department in<sup>4</sup>  
26 relation to the administration of this Act.

27 SECTION 9. APPLICANT QUALIFICATIONS; APPLICATION REVIEW.



1 (a) An applicant for a dietitian license must submit a sworn  
2 application, accompanied by the application fee.

3 (b) The board shall prescribe the form of the application  
4 and may by rule establish dates by which applications and fees must  
5 be received. These rules must not be inconsistent with present  
6 rules of the department related to application dates of other  
7 licenses.

8 (c) To qualify for the licensing examination under this Act,  
9 the applicant must:

10 (1) possess a baccalaureate or postbaccalaureate degree with  
11 a major course of study in human nutrition, food and nutrition,  
12 dietetics, or food systems management, or an equivalent major  
13 course of study approved by the board; and

14 (2) have completed an internship or preplanned professional<sup>3/4</sup>  
15 experience program approved by the board.

16 (d) Not later than the 45th day after the receipt of a<sup>8/2</sup>  
17 properly submitted and timely application, and not later than the  
18 30th day before the next examination date, the department shall  
19 notify an applicant in writing that his application and any other  
20 relevant evidence pertaining to applicant qualifications  
21 established by the board by rule has been received and  
22 investigated. The notice shall state whether the application and  
23 other evidence submitted have qualified the applicant for  
24 examination. If the applicant has not qualified for examination,  
25 the notice shall state the reasons for the lack of qualification.

26 SECTION 10. EXAMINATION. (a) To qualify for a license  
27 under this Act, an applicant must pass a competency examination.

1 Examinations shall be prepared or approved by the board and  
2 administered to qualified applicants at least twice each calendar  
3 year.

4 (b) An examination prescribed by the board may be or may  
5 include an examination given by the Commission on Dietetic  
6 Registration or by a national or state testing service in lieu of  
7 an examination prepared by the ~~board~~ board.

8 (c) Not later than the 30th day after the day on which a  
9 licensing examination is administered under this Act, the  
10 department shall notify each examinee of the results of the  
11 examination. If an examination is graded or reviewed by a national  
12 or state testing service, the department shall notify examinees of  
13 the results of the examination within two weeks after the day the  
14 department receives the results from the testing service. If the  
15 notice of the examination results will be delayed for more than 90<sup>7</sup>/<sub>10</sub>  
16 days after the examination date, the department shall notify the  
17 examinee of the reason for the delay before the 90th day.

18 (d) If requested in writing by a person who fails the  
19 licensing examination, the department shall furnish the person with  
20 an analysis of the person's performance on the examination.

21 (e) If an applicant fails the examination three times, the  
22 applicant must furnish evidence to the board of completed course  
23 work taken for credit with a passing grade in the areas of weakness  
24 before the applicant may again apply for examination.

25 SECTION 11. LICENSE. (a) A person who meets the licensing  
26 qualifications under this Act is entitled to receive a license  
27 certificate as a licensed dietitian.

1 (b) The licensee must:

2 (1) display the license certificate in an appropriate and  
3 public manner; and

4 (2) keep the department informed of his current address.

5 (c) A license certificate issued by the board is the  
6 property of the board and must be surrendered on demand.

7 SECTION 12. LICENSE EXPIRATION; RENEWAL. (a) A license is  
8 valid for one year from the date it is issued and may be renewed  
9 annually.

10 (b) The board of health by rule may adopt a system under  
11 which licenses expire on various dates during the year.

12 (c) A person may renew an unexpired license by paying the  
13 required renewal fee to the department before the expiration date  
14 of the license. 10/11

15 (d) If a person's license has been expired for not more than  
16 90 days, the person may renew the license by paying to the  
17 department the required renewal fee and a penalty fee that is  
18 one-half of the renewal fee.

19 (e) If a person's license has been expired for more than 90  
20 days but less than two years, the person may renew the license by  
21 paying to the department all unpaid renewal fees and a penalty fee  
22 that is equal to the renewal fee.

23 (f) If a person's license has been expired two years or  
24 more, the person may not renew the license. The person may obtain  
25 a new license by submitting to reexamination and complying with the  
26 current requirements and procedures for obtaining a license.

27 (g) The department shall notify each licensee in writing of

1 the license expiration date at least 30 days before that date and  
2 shall obtain from the licensee a signed receipt confirming receipt  
3 of notification. <sup>4/5</sup>

4 SECTION 13. PROVISIONAL LICENSE. (a) A license to use the  
5 title of provisional licensed dietitian may be issued by the board  
6 on the filing of an application, payment of an application fee, and  
7 the submission of evidence of the successful completion of the  
8 educational requirement under Section 9 of this Act. The initial  
9 application shall be signed by the supervising licensed dietitian.

10 (b) A provisional licensed dietitian shall be under the  
11 supervision and direction of a licensed dietitian.

12 (c) A person qualified for a provisional license under this  
13 Act is entitled to receive a license certificate as a provisional <sup>14/15</sup>  
14 licensed dietitian. A provisional licensed dietitian must comply  
15 with <sup>Subsections (b) and (c) of</sup> ~~Sections 11(b) and (c)~~ of this Act.

16 (d) A provisional license is valid for one year from the  
17 date it is issued and may be renewed annually by the same  
18 procedures established for renewal under Section 12 of this Act if  
19 the application for renewal is signed by the supervising licensed  
20 dietitian.

21 SECTION 14. RECIPROCITY. On receipt of an application and  
22 application fee, the board shall waive the examination requirement  
23 for an applicant who, at the time of application:

24 (1) is registered by the Commission on Dietetic Registration  
25 as a registered dietitian; or

26 (2) holds a valid license or certificate as a licensed or  
27 registered dietitian issued by another state with which this state

1 has a reciprocity agreement.

2 SECTION 15. PROHIBITED ACTS; PENALTY. (a) A person may not  
3 use the title or represent or imply that he has the title of  
4 "licensed dietitian" or "provisional licensed dietitian", or use  
5 the letters "LD" or "PLD" and may not use any facsimile of those  
6 titles in any manner to indicate or imply that the person is a  
7 licensed dietitian or provisional licensed dietitian, unless the  
8 person holds an appropriate license issued under this Act.

9 (b) A person may not use the title or represent or imply  
10 that he has the title of "registered dietitian" or the letters  
11 "RD" and may not use any facsimile of the title in any manner to  
12 indicate or imply that the person is registered as a registered  
13 dietitian by the Commission on Dietetic Registration, unless the  
14 person is registered as a registered dietitian by the Commission on  
15 Dietetic Registration.

16 (c) A person commits an offense if the person knowingly or  
17 intentionally violates Subsection (a) or (b) of this section. An  
18 offense under this section is a Class B misdemeanor.

19 SECTION 16. COMPLAINT FILE AND STATUS. (a) The department  
20 shall keep an information file about each complaint filed with the  
21 board related to a licensee.

22 (b) If a written complaint is filed with the board relating  
23 to a licensee, the department, at least as frequently as quarterly,  
24 shall notify the parties to the complaint of the status of the  
25 complaint until final disposition of the complaint.

26 SECTION 17. REVOCATION AND SUSPENSION; EX PARTE  
27 COMMUNICATION. (a) The board shall revoke or suspend a license,

1 probate a license suspension, or reprimand a licensee on proof of:

2 (1) any violation of this Act; or

3 (2) any violation of a rule or code of ethics adopted by the  
4 board.

5 (b) If the board proposes to suspend or revoke a person's  
6 license, the person is entitled to a hearing before the board.

7 (c) Proceedings for the suspension or revocation of a  
8 license are governed by the Administrative Procedure and Texas  
9 Register Act, <sup>as amended</sup> (Article 6252-13a, Vernon's Texas Civil Statutes).

10 (d) A member or employee of the board or an employee of the <sup>13/14</sup>  
11 department who carries out the functions of the board may not  
12 communicate directly or indirectly with a party to a proceeding  
13 pending before the board, <sup>6</sup> or with the party's representative,  
14 unless notice and an opportunity to participate are given to each  
15 party to the proceeding if the member or employee proposes to make  
16 a decision, a finding of fact, or a conclusion of law in the  
17 proceeding.

18 SECTION 18. DUTIES OF BOARD OF HEALTH. For the purpose of  
19 implementing this Act, the board of health:

20 (1) shall request and receive any necessary assistance of  
21 state educational institutions or other state agencies;

22 (2) shall prepare information of consumer interest  
23 describing the regulatory functions of the board, the procedures by  
24 which consumer complaints are filed and resolved, and the  
25 profession of dietetics;

26 (3) shall prepare a registry of licensed dietitians and  
27 provisional licensed dietitians and make this information available

1 to the general public, licensees, and appropriate state agencies;  
2 and

3 (4) may request the attorney general or the appropriate  
4 county or district attorney to institute a suit to enjoin a  
5 violation of this Act in addition to any other action, proceeding,  
6 or remedy authorized by law.

7 SECTION 19. APPLICATION OF SUNSET ACT. The board is subject  
8 to the Texas Sunset Act <sup>as amended</sup> (Article 5429k, Vernon's Texas Civil  
9 Statutes). Unless continued in existence as provided by that <sup>14</sup>/<sub>15</sub> Act,  
10 the board is abolished effective September 1, 199<sup>3</sup><sub>6</sub>.

11 SECTION 20. INITIAL BOARD APPOINTMENTS. (a) In making the  
12 initial appointments to the board, the governor shall designate  
13 three members, including one public member, for terms expiring  
14 September 1, 1989, three members, including one public member, for  
15 terms expiring September 1, 1987, and three members, including one  
16 public member, for terms expiring September 1, 1985.

17 (b) In making the initial six professional appointments to the  
18 board, the governor shall appoint six persons otherwise qualified  
19 under this Act who also have been for 60 months immediately  
20 preceding their appointment <sup>4</sup> and who presently are <sup>6</sup> registered as  
21 registered dietitians by the Commission on Dietetic Registration.

22 SECTION 21. INITIAL LICENSING PERIOD. For one year  
23 beginning on the effective date of this Act, the board shall waive  
24 the examination requirement under this Act and grant a license  
25 under this Act to any person who:

26 (1) is registered by the Commission on Dietetic Registration  
27 as a registered dietitian on the effective date of this Act or who

S; 102/ur  
22 units

1 becomes so registered before the one year anniversary of the  
2 effective date of this Act; or

3 (2) possesses a baccalaureate or postbaccalaureate degree,  
4 has satisfactorily completed appropriate academic requirements in  
5 the field of human nutrition, food and nutrition, dietetics, or  
6 food systems management or a directly related field approved by the  
7 board, and either has satisfactorily completed an internship or <sup>6/16</sup>  
8 preplanned professional experience program of not less than six  
9 months approved by the board, or has been employed in the field of  
10 dietetics for three of the 10 years immediately preceding the  
11 effective date of this Act.

12 SECTION 22. EFFECTIVE DATE. This Act takes effect September  
13 1, 1983.

14 SECTION 23. EMERGENCY. The importance of this legislation  
15 and the crowded condition of the calendars in both houses create an  
16 emergency and an imperative public necessity that the  
17 constitutional rule requiring bills to be read on three several  
18 days in each house be suspended, and this rule is hereby suspended. <sup>6/1</sup>



By: Glasgow

C.S.S.B. 671

Floor Amendment No. 1

By:

Glasgow

Amend C.S.S.B. 671 by striking the last sentence of subsection (g) of Section 3 of the bill.

**ADOPTED**

APR 12 1983

*Betty King*  
Secretary of the Senate

*Floor am. #1  
4/12/83*

BY: Glasgow

C.S.S.B. 671

Floor Amendment No. 2

By:

*Glasgow*

Amend Section 3 of S.B. 671 by striking the language of subsection (f) and substituting the following:

(f) An appointment to the board shall be made with due regard for the race, creed, sex, religion, and national origin of the appointee and the geographical distribution of the members of the Board.

*am<sup>2</sup>  
4/12/83*

*replaced  
by House Amendment*

**ADOPTED**

APR 12 1983

*Latoy King*  
Secretary of the Senate

*Floor am. # 2  
4/12/83*

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AMEND THE CAPTION TO CONFORM

TO THE BODY OF THE BILL

ADOPTED

APR 12 1983

*Betty King*  
Secretary of the Senate

April 12 1983 Engrossed  
Daisy Spaw  
Engrossing Clerk  
1983 APR 20 PM 12:24  
HOUSE OF REPRESENTATIVES

certify that the attached is a true and correct  
copy of \_\_\_\_\_ which was  
received from the Senate on APR 18 1983  
referred to the Committee on State Affairs  
Chief Clerk of the House

By: Glasgow, et al.  
(Laney)

S.B. No. 671

A BILL TO BE ENTITLED

AN ACT

relating to licensing and regulation of dietitians and to the membership, qualifications, and duties of the Texas State Board of Examiners of Dietitians and to the duties of the Texas Board of Health, and the Texas Department of Health; authorizing fees to meet expenses necessary to administer the Act; requiring an annual audit and certain reports; defining certain offenses and providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. SHORT TITLE. This Act may be cited as the Licensed Dietitian Act.

SECTION 2. DEFINITIONS. In this Act:

- (1) "Board of health" means the Texas Board of Health.
- (2) "Department" means the Texas Department of Health.
- (3) "Commissioner" means the commissioner of health.
- (4) "Board" means the Texas State Board of Examiners of Dietitians.
- (5) "Commission on Dietetic Registration" means the Commission on Dietetic Registration that is a member of the National Commission on Health Certifying Agencies.
- (6) "Dietetics" means the professional discipline of applying and integrating scientific principles of nutrition under different health, social, cultural, physical, psychological, and economic conditions to the proper nourishment, care, and education of individuals or groups throughout the life cycle. The term

1 includes without limitation the development, management, and  
2 provision of nutritional services.

3 (7) "Licensed dietitian" means a person licensed under this  
4 Act.

5 (8) "Provisional licensed dietitian" means a person  
6 provisionally licensed under this Act.

7 (9) "Degree" means a degree received from a college or  
8 university that was regionally accredited at the time the degree  
9 was conferred.

10 SECTION 3. BOARD; MEMBERSHIP. (a) The Texas State Board of  
11 Examiners of Dietitians is created.

12 (b) The board is composed of nine members. Three members  
13 must be members of the general public. Six members must be  
14 dietitians licensed under this Act.

15 (c) The governor with the advice and consent of the senate  
16 shall appoint the board members, who shall serve staggered terms of  
17 six years with two terms beginning September 1 of each odd-numbered  
18 year.

19 (d) The professional discipline of dietetics includes five  
20 primary areas of expertise: clinical, educational, management,  
21 consultation, and community. In making the six professional  
22 appointments to the board, the governor shall consider and attempt  
23 to accomplish a continuing balance of representation among these  
24 areas of expertise. Following the fourth anniversary date of the  
25 effective date of this Act, a licensee eligible for appointment as  
26 a professional board member must have been a licensed dietitian

1 under this Act for at least three years before his appointment to  
2 the board.

3 (e) A person is eligible for appointment as a public member  
4 if the person and the person's spouse:

5 (1) are not licensed by an occupational regulatory agency in  
6 the field of health care;

7 (2) are not employed by and do not participate in the  
8 management of an agency or business entity that provides  
9 health-care services or that sells, manufactures, or distributes  
10 health-care supplies or equipment; and

11 (3) do not own, control, or have a direct or indirect  
12 interest in more than 10 percent of a business entity that provides  
13 health-care services or that sells, manufactures, or distributes  
14 health-care supplies or equipment.

15 (f) An appointment to the board shall be made with due  
16 regard for the race, creed, sex, religion, and national origin of  
17 the appointee and the geographical distribution of the members of  
18 the board.

19 (g) A member or employee of the board may not be an officer,  
20 employee, or paid consultant of a trade association in the field of  
21 health care.

22 (h) A person who is required to register as a lobbyist under  
23 Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973,  
24 as amended (Article 6252-9c, Vernon's Texas Civil Statutes), in a  
25 health-related area may not serve as a member of the board or act  
26 as the general counsel to the board.

1           SECTION 4.    GROUNDS FOR REMOVAL.   (a) It is a ground for  
2 removal from the board if a member:

3           (1) does not have at the time of appointment the  
4 qualifications required for appointment to the board;

5           (2) does not maintain during service on the board the  
6 qualifications required for appointment to the board; or

7           (3) violates a prohibition established by this Act.

8           (b) If a ground for removal of a member from the board  
9 exists, the board's actions taken during the existence of the  
10 ground for removal are valid.

11          SECTION 5.    OFFICERS; MEETINGS; QUORUM; EXPENSES. (a) Not  
12 later than the 30th day after the day its new members are appointed  
13 by the governor, the board shall meet to elect a chairman and  
14 vice-chairman who shall hold office according to rules adopted by  
15 the board.

16          (b) The board shall hold at least two regular meetings each  
17 year as provided by rules adopted by the board. The rules may not  
18 be inconsistent with present rules of the department relating to  
19 meetings of boards.

20          (c) A majority of the members constitutes a quorum.

21          (d) Each member of the board is entitled to a per diem  
22 payment at the rate set by the legislature for state employees in  
23 the General Appropriations Act for each day that the member engages  
24 in the business of the board. A member is entitled to compensation  
25 for transportation expenses as provided by the General  
26 Appropriations Act. A board member may not receive a fixed salary

1 for his services.

2 SECTION 6. POWERS AND DUTIES OF BOARD. (a) The board may  
3 adopt rules consistent with this Act. In adopting rules, the board  
4 shall consider the rules and procedures of the board of health and  
5 the department and shall adopt procedural rules not inconsistent  
6 with similar existing rules and procedures of the board of health  
7 or the department.

8 (b) The board shall:

9 (1) adopt and publish a code of ethics and adopt an official  
10 seal;

11 (2) establish the qualifications and fitness of applicants  
12 for licenses, renewal of licenses, and reciprocal licenses;

13 (3) revoke, suspend, or deny a license, probate a license  
14 suspension, or reprimand a licensee for a violation of this Act,  
15 the code of ethics, or the rules of the board;

16 (4) spend funds necessary for the proper administration of  
17 its assigned duties;

18 (5) establish reasonable and necessary fees for the  
19 administration and implementation of this Act; and

20 (6) comply with the open meetings law, Chapter 271, Acts of  
21 the 60th Legislature, Regular Session, 1967, as amended (Article  
22 6252-17, Vernon's Texas Civil Statutes), and the Administrative  
23 Procedure and Texas Register Act, as amended (Article 6252-13a,  
24 Vernon's Texas Civil Statutes).

25 (c) The board may not adopt rules restricting competitive  
26 bidding or advertising by a person regulated by the board except to



1 prohibit false, misleading, or deceptive practices. The board may  
2 not include in its rules to prohibit false, misleading, or  
3 deceptive practices by a person regulated by the board a rule that:

4 (1) restricts the person's use of any medium for  
5 advertising;

6 (2) restricts the person's personal appearance or use of his  
7 personal voice in an advertisement;

8 (3) relates to the size or duration of any advertisement by  
9 the person; or

10 (4) restricts the person's advertisement under a trade name.

11 SECTION 7. ADMINISTRATIVE FUNCTIONS; PERSONNEL. (a) The  
12 basic personnel and necessary facilities that are required to  
13 administer this Act shall be the personnel and facilities of the  
14 department. The department personnel shall act as the agents of  
15 the board. If necessary to the administration or implementation of  
16 this Act, the department by agreement may secure and provide for  
17 compensation for services that it considers necessary and may  
18 employ and compensate within available appropriations professional  
19 consultants, technical assistants, and employees on a full-time or  
20 part-time basis.

21 (b) The commissioner shall designate an employee to serve as  
22 executive secretary of the board. The executive secretary must be  
23 an employee of the department. The executive secretary shall be  
24 the administrator of the licensing activities for the board. In  
25 addition to other duties prescribed by this Act and by the  
26 department, the executive secretary shall:

1           (1) keep full and accurate minutes of the transactions and  
2 proceedings of the board;

3           (2) be the custodian of the files and records of the board;

4           (3) prepare and recommend to the board plans and procedures  
5 necessary to implement the purposes and objectives of this Act,  
6 including rules and proposals on administrative procedures  
7 consistent with this Act;

8           (4) exercise general supervision over persons employed by  
9 the department in the administration of this Act;

10          (5) be responsible for the investigation of complaints and  
11 for the presentation of formal complaints;

12          (6) attend all meetings of the board as a nonvoting  
13 participant; and

14          (7) handle the correspondence of the board and obtain,  
15 assemble, or prepare the reports and information that the board may  
16 direct or authorize.

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19 shall set the fees imposed by this Act in amounts that are adequate  
20 to collect sufficient revenue to meet the expenses necessary to  
21 administer this Act without accumulating an unnecessary surplus in  
22 the Licensed Dietitian Act fund created by this section.

23          (b) The department shall receive and account for funds  
24 derived under this Act. The funds shall be deposited in the State  
25 Treasury to the credit of a special fund to be known as the  
26 Licensed Dietitian Act fund to be used only for the administration

1 of this Act.

2 (c) Not later than January 1 each year, the department shall  
3 make a written report to the governor, lieutenant governor, and  
4 speaker of the house of representatives accounting for all funds  
5 received and disbursed by the board or the department for the  
6 administration of this Act during the preceding year.

7 (d) During each fiscal year, the State Auditor shall audit  
8 the financial transactions of the board or the department in  
9 relation to the administration of this Act.

10 SECTION 9. APPLICANT QUALIFICATIONS; APPLICATION  
11 REVIEW. (a) An applicant for a dietitian license must submit a  
12 sworn application, accompanied by the application fee.

13 (b) The board shall prescribe the form of the application  
14 and may by rule establish dates by which applications and fees must  
15 be received. These rules must not be inconsistent with present  
16 rules of the department related to application dates of other  
17 licenses.

18 (c) To qualify for the licensing examination under this Act,  
19 the applicant must:

20 (1) possess a baccalaureate or postbaccalaureate degree with  
21 a major course of study in human nutrition, food and nutrition,  
22 dietetics, or food systems management or an equivalent major course  
23 of study approved by the board; and

24 (2) have completed an internship or preplanned professional  
25 experience program approved by the board.

26 (d) Not later than the 45th day after the receipt of a

1 properly submitted and timely application and not later than the  
 2 30th day before the next examination date, the department shall  
 3 notify an applicant in writing that his application and any other  
 4 relevant evidence pertaining to applicant qualifications  
 5 established by the board by rule has been received and  
 6 investigated. The notice shall state whether the application and  
 7 other evidence submitted have qualified the applicant for  
 8 examination. If the applicant has not qualified for examination,  
 9 the notice shall state the reasons for the lack of qualification.

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 11 under this Act, an applicant must pass a competency examination.  
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 13 administered to qualified applicants at least twice each calendar  
 14 year.

15 (b) An examination prescribed by the board may be or may  
 16 include an examination given by the Commission on Dietetic  
 17 Registration or by a national or state testing service in lieu of  
 18 an examination prepared by the board.

19 (c) Not later than the 30th day after the day on which a  
 20 licensing examination is administered under this Act, the  
 21 department shall notify each examinee of the results of the  
 22 examination. If an examination is graded or reviewed by a national  
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 24 the results of the examination within two weeks after the day the  
 25 department receives the results from the testing service. If the  
 26 notice of the examination results will be delayed for more than 90

1 days after the examination date, the department shall notify the  
2 examinee of the reason for the delay before the 90th day.

3 (d) If requested in writing by a person who fails the  
4 licensing examination, the department shall furnish the person with  
5 an analysis of the person's performance on the examination.

6 (e) If an applicant fails the examination three times, the  
7 applicant must furnish evidence to the board of completed course  
8 work taken for credit with a passing grade in the areas of weakness  
9 before the applicant may again apply for examination.

10 SECTION 11. LICENSE. (a) A person who meets the licensing  
11 qualifications under this Act is entitled to receive a license  
12 certificate as a licensed dietitian.

13 (b) The licensee must:

14 (1) display the license certificate in an appropriate and  
15 public manner; and

16 (2) keep the department informed of his current address.

17 (c) A license certificate issued by the board is the  
18 property of the board and must be surrendered on demand.

19 SECTION 12. LICENSE EXPIRATION; RENEWAL. (a) A license is  
20 valid for one year from the date it is issued and may be renewed  
21 annually.

22 (b) The board of health by rule may adopt a system under  
23 which licenses expire on various dates during the year.

24 (c) A person may renew an unexpired license by paying the  
25 required renewal fee to the department before the expiration date  
26 of the license.

1           (d) If a person's license has been expired for not more than  
2 90 days, the person may renew the license by paying to the  
3 department the required renewal fee and a penalty fee that is  
4 one-half of the renewal fee.

5           (e) If a person's license has been expired for more than 90  
6 days but less than two years, the person may renew the license by  
7 paying to the department all unpaid renewal fees and a penalty fee  
8 that is equal to the renewal fee.

9           (f) If a person's license has been expired two years or  
10 more, the person may not renew the license. The person may obtain  
11 a new license by submitting to reexamination and complying with the  
12 current requirements and procedures for obtaining a license.

13           (g) The department shall notify each licensee in writing of  
14 the license expiration date at least 30 days before that date and  
15 shall obtain from the licensee a signed receipt confirming receipt  
16 of notification.

17           SECTION 13. PROVISIONAL LICENSE. (a) A license to use the  
18 title of provisional licensed dietitian may be issued by the board  
19 on the filing of an application, payment of an application fee, and  
20 the submission of evidence of the successful completion of the  
21 educational requirement under Section 9 of this Act. The initial  
22 application shall be signed by the supervising licensed dietitian.

23           (b) A provisional licensed dietitian shall be under the  
24 supervision and direction of a licensed dietitian.

25           (c) A person qualified for a provisional license under this  
26 Act is entitled to receive a license certificate as a provisional

1 licensed dietitian. A provisional licensed dietitian must comply  
2 with Subsections (b) and (c) of Section 11 of this Act.

3 (d) A provisional license is valid for one year from the  
4 date it is issued and may be renewed annually by the same  
5 procedures established for renewal under Section 12 of this Act if  
6 the application for renewal is signed by the supervising licensed  
7 dietitian.

8 SECTION 14. RECIPROCITY. On receipt of an application and  
9 application fee, the board shall waive the examination requirement  
10 for an applicant who, at the time of application:

11 (1) is registered by the Commission on Dietetic Registration  
12 as a registered dietitian; or

13 (2) holds a valid license or certificate as a licensed or  
14 registered dietitian issued by another state with which this state  
15 has a reciprocity agreement.

16 SECTION 15. PROHIBITED ACTS; PENALTY. (a) A person may not  
17 use the title or represent or imply that he has the title of  
18 "licensed dietitian" or "provisional licensed dietitian" or use the  
19 letters "LD" or "PLD" and may not use any facsimile of those titles  
20 in any manner to indicate or imply that the person is a licensed  
21 dietitian or provisional licensed dietitian, unless the person  
22 holds an appropriate license issued under this Act.

23 (b) A person may not use the title or represent or imply  
24 that he has the title of "registered dietitian" or the letters "RD"  
25 and may not use any facsimile of the title in any manner to  
26 indicate or imply that the person is registered as a registered

1 dietitian by the Commission on Dietetic Registration, unless the  
2 person is registered as a registered dietitian by the Commission on  
3 Dietetic Registration.

4 (c) A person commits an offense if the person knowingly or  
5 intentionally violates Subsection (a) or (b) of this section. An  
6 offense under this section is a Class B misdemeanor.

7 SECTION 16. COMPLAINT FILE AND STATUS. (a) The department  
8 shall keep an information file about each complaint filed with the  
9 board related to a licensee.

10 (b) If a written complaint is filed with the board relating  
11 to a licensee, the department, at least as frequently as quarterly,  
12 shall notify the parties to the complaint of the status of the  
13 complaint until final disposition of the complaint.

14 SECTION 17. REVOCATION AND SUSPENSION; EX PARTE  
15 COMMUNICATION. (a) The board shall revoke or suspend a license,  
16 probate a license suspension, or reprimand a licensee on proof of:

17 (1) any violation of this Act; or

18 (2) any violation of a rule or code of ethics adopted by the  
19 board.

20 (b) If the board proposes to suspend or revoke a person's  
21 license, the person is entitled to a hearing before the board.

22 (c) Proceedings for the suspension or revocation of a  
23 license are governed by the Administrative Procedure and Texas  
24 Register Act, as amended (Article 6252-13a, Vernon's Texas Civil  
25 Statutes).

26 (d) A member or employee of the board or an employee of the



1 department who carries out the functions of the board may not  
2 communicate directly or indirectly with a party to a proceeding  
3 pending before the board or with the party's representative, unless  
4 notice and an opportunity to participate are given to each party to  
5 the proceeding if the member or employee proposes to make a  
6 decision, a finding of fact, or a conclusion of law in the  
7 proceeding.

8 SECTION 18. DUTIES OF BOARD OF HEALTH. For the purpose of  
9 implementing this Act, the board of health:

10 (1) shall request and receive any necessary assistance of  
11 state educational institutions or other state agencies;

12 (2) shall prepare information of consumer interest  
13 describing the regulatory functions of the board, the procedures by  
14 which consumer complaints are filed and resolved, and the  
15 profession of dietetics;

16 (3) shall prepare a registry of licensed dietitians and  
17 provisional licensed dietitians and make this information available  
18 to the general public, licensees, and appropriate state agencies;  
19 and

20 (4) may request the attorney general or the appropriate  
21 county or district attorney to institute a suit to enjoin a  
22 violation of this Act in addition to any other action, proceeding,  
23 or remedy authorized by law.

24 SECTION 19. APPLICATION OF SUNSET ACT. The board is subject  
25 to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas  
26 Civil Statutes). Unless continued in existence as provided by that

1 Act, the board is abolished effective September 1, 1991.

2 SECTION 20. INITIAL BOARD APPOINTMENTS. (a) In making the  
3 initial appointments to the board, the governor shall designate  
4 three members, including one public member, for terms expiring  
5 September 1, 1989, three members, including one public member, for  
6 terms expiring September 1, 1987, and three members, including one  
7 public member, for terms expiring September 1, 1985.

8 (b) In making the initial six professional appointments to  
9 the board, the governor shall appoint six persons otherwise  
10 qualified under this Act who also have been for 60 months  
11 immediately preceding their appointment and who presently are  
12 registered as registered dietitians by the Commission on Dietetic  
13 Registration.

14 SECTION 21. INITIAL LICENSING PERIOD. For one year  
15 beginning on the effective date of this Act, the board shall waive  
16 the examination requirement under this Act and grant a license  
17 under this Act to any person who:

18 (1) is registered by the Commission on Dietetic Registration  
19 as a registered dietitian on the effective date of this Act or who  
20 becomes so registered before the one year anniversary of the  
21 effective date of this Act; or

22 (2) possesses a baccalaureate or postbaccalaureate degree,  
23 has satisfactorily completed appropriate academic requirements in  
24 the field of human nutrition, food and nutrition, dietetics, or  
25 food systems management or a directly related field approved by the  
26 board, and either has satisfactorily completed an internship or

1 preplanned professional experience program of not less than six  
2 months approved by the board or has been employed in the field of  
3 dietetics for three of the 10 years immediately preceding the  
4 effective date of this Act.

5 SECTION 22. EFFECTIVE DATE. This Act takes effect  
6 September 1, 1983.

7 SECTION 23. EMERGENCY. The importance of this legislation  
8 and the crowded condition of the calendars in both houses create an  
9 emergency and an imperative public necessity that the  
10 constitutional rule requiring bills to be read on three several  
11 days in each house be suspended, and this rule is hereby suspended.

S.B. No. 671

1 COMMITTEE AMENDMENT NO. 1

2 Amend S.B. 671 as follows:

3           Strike the language "September 1, 1991" on Page 15, Line 1,  
4           and add the language "September 1, 1993".

5 Bomer

1983 MAY -3 PM 1:44

# HOUSE COMMITTEE REPORT

1st Printing

By: Glasgow, et al.  
(Laney)

S.B. No. 671

A BILL TO BE ENTITLED

AN ACT

relating to licensing and regulation of dietitians and to the membership, qualifications, and duties of the Texas State Board of Examiners of Dietitians and to the duties of the Texas Board of Health, and the Texas Department of Health; authorizing fees to meet expenses necessary to administer the Act; requiring an annual audit and certain reports; defining certain offenses and providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. SHORT TITLE. This Act may be cited as the Licensed Dietitian Act.

SECTION 2. DEFINITIONS. In this Act:

(1) "Board of health" means the Texas Board of Health.

(2) "Department" means the Texas Department of Health.

(3) "Commissioner" means the commissioner of health.

(4) "Board" means the Texas State Board of Examiners of Dietitians.

(5) "Commission on Dietetic Registration" means the Commission on Dietetic Registration that is a member of the National Commission on Health Certifying Agencies.

(6) "Dietetics" means the professional discipline of applying and integrating scientific principles of nutrition under different health, social, cultural, physical, psychological, and economic conditions to the proper nourishment, care, and education of individuals or groups throughout the life cycle. The term

1 includes without limitation the development, management, and  
2 provision of nutritional services.

3 (7) "Licensed dietitian" means a person licensed under this  
4 Act.

5 (8) "Provisional licensed dietitian" means a person  
6 provisionally licensed under this Act.

7 (9) "Degree" means a degree received from a college or  
8 university that was regionally accredited at the time the degree  
9 was conferred.

10 SECTION 3. BOARD; MEMBERSHIP. (a) The Texas State Board of  
11 Examiners of Dietitians is created.

12 (b) The board is composed of nine members. Three members  
13 must be members of the general public. Six members must be  
14 dietitians licensed under this Act.

15 (c) The governor with the advice and consent of the senate  
16 shall appoint the board members, who shall serve staggered terms of  
17 six years with two terms beginning September 1 of each odd-numbered  
18 year.

19 (d) The professional discipline of dietetics includes five  
20 primary areas of expertise: clinical, educational, management,  
21 consultation, and community. In making the six professional  
22 appointments to the board, the governor shall consider and attempt  
23 to accomplish a continuing balance of representation among these  
24 areas of expertise. Following the fourth anniversary date of the  
25 effective date of this Act, a licensee eligible for appointment as  
26 a professional board member must have been a licensed dietitian

1 under this Act for at least three years before his appointment to  
2 the board.

3 (e) A person is eligible for appointment as a public member  
4 if the person and the person's spouse:

5 (1) are not licensed by an occupational regulatory agency in  
6 the field of health care;

7 (2) are not employed by and do not participate in the  
8 management of an agency or business entity that provides  
9 health-care services or that sells, manufactures, or distributes  
10 health-care supplies or equipment; and

11 (3) do not own, control, or have a direct or indirect  
12 interest in more than 10 percent of a business entity that provides  
13 health-care services or that sells, manufactures, or distributes  
14 health-care supplies or equipment.

15 (f) An appointment to the board shall be made with due  
16 regard for the race, creed, sex, religion, and national origin of  
17 the appointee and the geographical distribution of the members of  
18 the board.

19 (g) A member or employee of the board may not be an officer,  
20 employee, or paid consultant of a trade association in the field of  
21 health care.

22 (h) A person who is required to register as a lobbyist under  
23 Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973,  
24 as amended (Article 6252-9c, Vernon's Texas Civil Statutes), in a  
25 health-related area may not serve as a member of the board or act  
26 as the general counsel to the board.

1           SECTION 4.    GROUNDS FOR REMOVAL.   (a) It is a ground for  
2 removal from the board if a member:

3           (1) does not have at the time of appointment the  
4 qualifications required for appointment to the board;

5           (2) does not maintain during service on the board the  
6 qualifications required for appointment to the board; or

7           (3) violates a prohibition established by this Act.

8           (b) If a ground for removal of a member from the board  
9 exists, the board's actions taken during the existence of the  
10 ground for removal are valid.

11          SECTION 5.    OFFICERS; MEETINGS; QUORUM; EXPENSES.   (a) Not  
12 later than the 30th day after the day its new members are appointed  
13 by the governor, the board shall meet to elect a chairman and  
14 vice-chairman who shall hold office according to rules adopted by  
15 the board.

16          (b) The board shall hold at least two regular meetings each  
17 year as provided by rules adopted by the board. The rules may not  
18 be inconsistent with present rules of the department relating to  
19 meetings of boards.

20          (c) A majority of the members constitutes a quorum.

21          (d) Each member of the board is entitled to a per diem  
22 payment at the rate set by the legislature for state employees in  
23 the General Appropriations Act for each day that the member engages  
24 in the business of the board. A member is entitled to compensation  
25 for transportation expenses as provided by the General  
26 Appropriations Act. A board member may not receive a fixed salary



1 for his services.

2 SECTION 6. POWERS AND DUTIES OF BOARD. (a) The board may  
3 adopt rules consistent with this Act. In adopting rules, the board  
4 shall consider the rules and procedures of the board of health and  
5 the department and shall adopt procedural rules not inconsistent  
6 with similar existing rules and procedures of the board of health  
7 or the department.

8 (b) The board shall:

9 (1) adopt and publish a code of ethics and adopt an official  
10 seal;

11 (2) establish the qualifications and fitness of applicants  
12 for licenses, renewal of licenses, and reciprocal licenses;

13 (3) revoke, suspend, or deny a license, probate a license  
14 suspension, or reprimand a licensee for a violation of this Act,  
15 the code of ethics, or the rules of the board;

16 (4) spend funds necessary for the proper administration of  
17 its assigned duties;

18 (5) establish reasonable and necessary fees for the  
19 administration and implementation of this Act; and

20 (6) comply with the open meetings law, Chapter 271, Acts of  
21 the 60th Legislature, Regular Session, 1967, as amended (Article  
22 6252-17, Vernon's Texas Civil Statutes), and the Administrative  
23 Procedure and Texas Register Act, as amended (Article 6252-13a,  
24 Vernon's Texas Civil Statutes).

25 (c) The board may not adopt rules restricting competitive  
26 bidding or advertising by a person regulated by the board except to

1 prohibit false, misleading, or deceptive practices. The board may  
2 not include in its rules to prohibit false, misleading, or  
3 deceptive practices by a person regulated by the board a rule that:

4 (1) restricts the person's use of any medium for  
5 advertising;

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7 personal voice in an advertisement;

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9 the person; or

10 (4) restricts the person's advertisement under a trade name.

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12 basic personnel and necessary facilities that are required to  
13 administer this Act shall be the personnel and facilities of the  
14 department. The department personnel shall act as the agents of  
15 the board. If necessary to the administration or implementation of  
16 this Act, the department by agreement may secure and provide for  
17 compensation for services that it considers necessary and may  
18 employ and compensate within available appropriations professional  
19 consultants, technical assistants, and employees on a full-time or  
20 part-time basis.

21 (b) The commissioner shall designate an employee to serve as  
22 executive secretary of the board. The executive secretary must be  
23 an employee of the department. The executive secretary shall be  
24 the administrator of the licensing activities for the board. In  
25 addition to other duties prescribed by this Act and by the  
26 department, the executive secretary shall:

1           (1) keep full and accurate minutes of the transactions and  
2 proceedings of the board;

3           (2) be the custodian of the files and records of the board;

4           (3) prepare and recommend to the board plans and procedures  
5 necessary to implement the purposes and objectives of this Act,  
6 including rules and proposals on administrative procedures  
7 consistent with this Act;

8           (4) exercise general supervision over persons employed by  
9 the department in the administration of this Act;

10          (5) be responsible for the investigation of complaints and  
11 for the presentation of formal complaints;

12          (6) attend all meetings of the board as a nonvoting  
13 participant; and

14          (7) handle the correspondence of the board and obtain,  
15 assemble, or prepare the reports and information that the board may  
16 direct or authorize.

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19 shall set the fees imposed by this Act in amounts that are adequate  
20 to collect sufficient revenue to meet the expenses necessary to  
21 administer this Act without accumulating an unnecessary surplus in  
22 the Licensed Dietitian Act fund created by this section.

23          (b) The department shall receive and account for funds  
24 derived under this Act. The funds shall be deposited in the State  
25 Treasury to the credit of a special fund to be known as the  
26 Licensed Dietitian Act fund to be used only for the administration

1 of this Act.

2 (c) Not later than January 1 each year, the department shall  
3 make a written report to the governor, lieutenant governor, and  
4 speaker of the house of representatives accounting for all funds  
5 received and disbursed by the board or the department for the  
6 administration of this Act during the preceding year.

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8 the financial transactions of the board or the department in  
9 relation to the administration of this Act.

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3 notify an applicant in writing that his application and any other  
4 relevant evidence pertaining to applicant qualifications  
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26 notice of the examination results will be delayed for more than 90

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17 (c) A license certificate issued by the board is the  
18 property of the board and must be surrendered on demand.

19 SECTION 12. LICENSE EXPIRATION; RENEWAL. (a) A license is  
20 valid for one year from the date it is issued and may be renewed  
21 annually.

22 (b) The board of health by rule may adopt a system under  
23 which licenses expire on various dates during the year.

24 (c) A person may renew an unexpired license by paying the  
25 required renewal fee to the department before the expiration date  
26 of the license.

1           (d) If a person's license has been expired for not more than  
2 90 days, the person may renew the license by paying to the  
3 department the required renewal fee and a penalty fee that is  
4 one-half of the renewal fee.

5           (e) If a person's license has been expired for more than 90  
6 days but less than two years, the person may renew the license by  
7 paying to the department all unpaid renewal fees and a penalty fee  
8 that is equal to the renewal fee.

9           (f) If a person's license has been expired two years or  
10 more, the person may not renew the license. The person may obtain  
11 a new license by submitting to reexamination and complying with the  
12 current requirements and procedures for obtaining a license.

13           (g) The department shall notify each licensee in writing of  
14 the license expiration date at least 30 days before that date and  
15 shall obtain from the licensee a signed receipt confirming receipt  
16 of notification.

17           SECTION 13. PROVISIONAL LICENSE. (a) A license to use the  
18 title of provisional licensed dietitian may be issued by the board  
19 on the filing of an application, payment of an application fee, and  
20 the submission of evidence of the successful completion of the  
21 educational requirement under Section 9 of this Act. The initial  
22 application shall be signed by the supervising licensed dietitian.

23           (b) A provisional licensed dietitian shall be under the  
24 supervision and direction of a licensed dietitian.

25           (c) A person qualified for a provisional license under this  
26 Act is entitled to receive a license certificate as a provisional

1 licensed dietitian. A provisional licensed dietitian must comply  
2 with Subsections (b) and (c) of Section 11 of this Act.

3 (d) A provisional license is valid for one year from the  
4 date it is issued and may be renewed annually by the same  
5 procedures established for renewal under Section 12 of this Act if  
6 the application for renewal is signed by the supervising licensed  
7 dietitian.

8 SECTION 14. RECIPROCITY. On receipt of an application and  
9 application fee, the board shall waive the examination requirement  
10 for an applicant who, at the time of application:

11 (1) is registered by the Commission on Dietetic Registration  
12 as a registered dietitian; or

13 (2) holds a valid license or certificate as a licensed or  
14 registered dietitian issued by another state with which this state  
15 has a reciprocity agreement.

16 SECTION 15. PROHIBITED ACTS; PENALTY. (a) A person may not  
17 use the title or represent or imply that he has the title of  
18 "licensed dietitian" or "provisional licensed dietitian" or use the  
19 letters "LD" or "PLD" and may not use any facsimile of those titles  
20 in any manner to indicate or imply that the person is a licensed  
21 dietitian or provisional licensed dietitian, unless the person  
22 holds an appropriate license issued under this Act.

23 (b) A person may not use the title or represent or imply  
24 that he has the title of "registered dietitian" or the letters "RD"  
25 and may not use any facsimile of the title in any manner to  
26 indicate or imply that the person is registered as a registered



1 dietitian by the Commission on Dietetic Registration, unless the  
2 person is registered as a registered dietitian by the Commission on  
3 Dietetic Registration.

4 (c) A person commits an offense if the person knowingly or  
5 intentionally violates Subsection (a) or (b) of this section. An  
6 offense under this section is a Class B misdemeanor.

7 SECTION 16. COMPLAINT FILE AND STATUS. (a) The department  
8 shall keep an information file about each complaint filed with the  
9 board related to a licensee.

10 (b) If a written complaint is filed with the board relating  
11 to a licensee, the department, at least as frequently as quarterly,  
12 shall notify the parties to the complaint of the status of the  
13 complaint until final disposition of the complaint.

14 SECTION 17. REVOCATION AND SUSPENSION; EX PARTE  
15 COMMUNICATION. (a) The board shall revoke or suspend a license,  
16 probate a license suspension, or reprimand a licensee on proof of:

17 (1) any violation of this Act; or

18 (2) any violation of a rule or code of ethics adopted by the  
19 board.

20 (b) If the board proposes to suspend or revoke a person's  
21 license, the person is entitled to a hearing before the board.

22 (c) Proceedings for the suspension or revocation of a  
23 license are governed by the Administrative Procedure and Texas  
24 Register Act, as amended (Article 6252-13a, Vernon's Texas Civil  
25 Statutes).

26 (d) A member or employee of the board or an employee of the

1 department who carries out the functions of the board may not  
2 communicate directly or indirectly with a party to a proceeding  
3 pending before the board or with the party's representative, unless  
4 notice and an opportunity to participate are given to each party to  
5 the proceeding if the member or employee proposes to make a  
6 decision, a finding of fact, or a conclusion of law in the  
7 proceeding.

8 SECTION 18. DUTIES OF BOARD OF HEALTH. For the purpose of  
9 implementing this Act, the board of health:

10 (1) shall request and receive any necessary assistance of  
11 state educational institutions or other state agencies;

12 (2) shall prepare information of consumer interest  
13 describing the regulatory functions of the board, the procedures by  
14 which consumer complaints are filed and resolved, and the  
15 profession of dietetics;

16 (3) shall prepare a registry of licensed dietitians and  
17 provisional licensed dietitians and make this information available  
18 to the general public, licensees, and appropriate state agencies;  
19 and

20 (4) may request the attorney general or the appropriate  
21 county or district attorney to institute a suit to enjoin a  
22 violation of this Act in addition to any other action, proceeding,  
23 or remedy authorized by law.

24 SECTION 19. APPLICATION OF SUNSET ACT. The board is subject  
25 to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas  
26 Civil Statutes). Unless continued in existence as provided by that

1 Act, the board is abolished effective September 1, 1991.

2 SECTION 20. INITIAL BOARD APPOINTMENTS. (a) In making the  
3 initial appointments to the board, the governor shall designate  
4 three members, including one public member, for terms expiring  
5 September 1, 1989, three members, including one public member, for  
6 terms expiring September 1, 1987, and three members, including one  
7 public member, for terms expiring September 1, 1985.

8 (b) In making the initial six professional appointments to  
9 the board, the governor shall appoint six persons otherwise  
10 qualified under this Act who also have been for 60 months  
11 immediately preceding their appointment and who presently are  
12 registered as registered dietitians by the Commission on Dietetic  
13 Registration.

14 SECTION 21. INITIAL LICENSING PERIOD. For one year  
15 beginning on the effective date of this Act, the board shall waive  
16 the examination requirement under this Act and grant a license  
17 under this Act to any person who:

18 (1) is registered by the Commission on Dietetic Registration  
19 as a registered dietitian on the effective date of this Act or who  
20 becomes so registered before the one year anniversary of the  
21 effective date of this Act; or

22 (2) possesses a baccalaureate or postbaccalaureate degree,  
23 has satisfactorily completed appropriate academic requirements in  
24 the field of human nutrition, food and nutrition, dietetics, or  
25 food systems management or a directly related field approved by the  
26 board, and either has satisfactorily completed an internship or

1 preplanned professional experience program of not less than six  
2 months approved by the board or has been employed in the field of  
3 dietetics for three of the 10 years immediately preceding the  
4 effective date of this Act.

5 SECTION 22. EFFECTIVE DATE. This Act takes effect  
6 September 1, 1983.

7 SECTION 23. EMERGENCY. The importance of this legislation  
8 and the crowded condition of the calendars in both houses create an  
9 emergency and an imperative public necessity that the  
10 constitutional rule requiring bills to be read on three several  
11 days in each house be suspended, and this rule is hereby suspended.

S.B. No. 671

COMMITTEE AMENDMENT NO. 1

Amend S.B. 671 as follows:

Strike the language "September 1, 1991" on Page 15, Line 1,  
and add the language "September 1, 1993".

Bomer

COMMITTEE REPORT

The Honorable Gib Lewis  
Speaker of the House of Representatives

4-25-83

(date)

Sir:

We, your COMMITTEE ON STATE AFFAIRS, to whom was referred SB 671 have had the same under consideration and beg to report back with the recommendation that it (measure)

- ( ) do pass, without amendment.  
(☒) do pass, with amendment.  
( ) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. (☒) yes ( ) no

An author's fiscal statement was requested. ( ) yes (☒) no

An actuarial analysis was requested. ( ) yes (☒) no

The Committee recommends that this measure be placed on the (Local) or (Consent) Calendar.

This measure (☒) proposes new law.  
( ) amends existing law.

House Sponsor of Senate Measure Laney

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Laney, Ch.	<input checked="" type="checkbox"/>			
Ceverha, V.C.	<input checked="" type="checkbox"/>			
Millsap, C.B.O.	<input checked="" type="checkbox"/>			
Bomer	<input checked="" type="checkbox"/>			
Bush				<input checked="" type="checkbox"/>
Davis	<input checked="" type="checkbox"/>			
Gilley	<input checked="" type="checkbox"/>			
Green				<input checked="" type="checkbox"/>
Hill, P.	<input checked="" type="checkbox"/>			
Horn	<input checked="" type="checkbox"/>			
Keller	<input checked="" type="checkbox"/>			
Pennington	<input checked="" type="checkbox"/>			
Short	<input checked="" type="checkbox"/>			
Smith, C.	<input checked="" type="checkbox"/>			
Stiles	<input checked="" type="checkbox"/>			

Total 13 aye  
0 nay  
0 present, not voting  
2 absent

[Signature]  
CHAIRMAN

[Signature]  
COMMITTEE COORDINATOR

## BILL ANALYSIS

### Background

With the increased concern for nutrition and health has come an increase in the number of persons in businesses giving nutritional advice. Unfortunately, an alarming percentage of these persons are not qualified to give such advice. To the public, a nutritionist by self-proclamation is of equal credibility with any qualified dietitian. With the increasing number of untrained persons giving nutritional advice comes the increasing concern of the qualified dietitians and health-related professionals for a public being bombarded daily with nutrition misinformation which can prove dangerous to a person's health.

### Purpose

The purpose of the Act is to give the public and health-related professionals a readily identifiable source of competent dietitians by the creation of the Board of Examiners of Dietitians.

### Section by Section Analysis

- Sec. 1 Short title: Licensed Dietitian Act.
- Sec. 2 Definitions.
- Sec. 3 Sets forth provisions for the creation and membership of the Board of Examiners of Dietitians.
- Sec. 4 Provides for grounds for removal of Board members.
- Sec. 5 Sets forth provisions for the election of officers, holding of meetings, establishment of a quorum, and expenses.
- Sec. 6 The Board is empowered to adopt rules. The Board is required to attempt to adopt procedural rules not inconsistent with similar rules of the Board of Health. The Board shall: (1) adopt an ethics code; (2) establish qualifications for license applicants, renewals, and reciprocity; (3) revoke, suspend, deny or probate a license, or reprimand a licensee, and allow hearings related thereto; and (4) expend necessary funds and establish necessary fees.
- Sec. 7 Provides for the personnel and administrative functions to be those of the Department of Health.
- Sec. 8 Sets forth provisions allowing the Board to set fees and requiring an annual financial report and state audit.
- Sec. 9 Sets forth regulations concerning applicant qualifications and review.
- Sec. 10 Provides for examinations and evaluations.
- Sec. 11 Provides for a license to be given to qualified applicants.
- Sec. 12 Provides for the expiration and renewal of a license.
- Sec. 13 Sets forth provisions concerning a provisional license.
- Sec. 14 Reciprocity Clause.

- Sec. 15 Provides for a penalty of a Class B misdemeanor against persons who violate the uses and representation of a licensed title.
- Sec. 16 Provides for the maintenance of a complaint file.
- Sec. 17 Provides for the Board to revoke or suspend a license under certain conditions and to prohibit ex parte communications.
- Sec. 18 The Board of Health shall seek necessary state assistance, and prepare consumer information and a registry of licensees, and is allowed to request the attorney general or appropriate county or district attorneys to take appropriate actions, including enjoinder of violations of the Act.
- Sec. 19 Sunset Clause.
- Sec. 20 Sets forth provisions for the initial Board appointments by the Governor.
- Sec. 21 Provides for the initial licensing period.
- Sec. 22 This Act takes effect on September 1, 1983.
- Sec. 23 Emergency Clause.

#### Rulemaking Authority

S.B. 671, providing for the creation of the Board of Examiners of Dietitians, sets forth rulemaking provisions as follows:

Section 5 allows the Board to adopt rules in relation to board meetings.

Section 6 allows the Board to adopt rules, not inconsistent with this Act or existing rules and procedures of the Board of Health or the Department.

Section 7 proposes to give power to the executive secretary of the Board in relation to administrative procedures consistent with this Act.

Section 9(b) proposes to allow the Board to adopt rules not inconsistent with present rules of the Department establishing dates by which applications and fees must be received.

Section 12(b) proposes to allow the Board of Health power to adopt, by rule, a system under which licenses expire on various dates during the year.

#### Summary of Committee Action

Public notice was posted in accordance with the Rules of Procedure of the House of Representatives on H.B. 1184 and a public hearing was held on April 18, 1983.

The bill was referred to a subcommittee consisting of the following members: Mr. Bomer-Chairman, Mr. Millsap, and Mr. Short. On April 20, 1983 S.B. 671 was referred to the same subcommittee on H.B. 1184. The subcommittee substituted S.B. 671 for H.B. 1184 (which is the companion bill). On April 20, 1983, S.B. 671 was reported to the full committee with amendment.

On April 25, 1983 the full committee voted to report S.B. 671 to the House with amendment and the recommendation that it do pass by a record vote of 13 ayes and 0 nays.

The subcommittee amendment changes the Sunset Act expiration date from September 1, 1991 to September 1, 1993.



# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

April 29, 1983

Honorable James E. (Pete) Laney, Chair  
Committee on State Affairs  
House of Representatives  
Austin, Texas

In Re: House Committee Amendment  
Senate Bill No. 671

Sir:

In response to your request for a Fiscal Note on House Committee Amendment to Senate Bill No. 671 (relating to the regulation of dietitians; providing a penalty) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would establish the Texas State Board of Examiners of Dietitians. The administrative services for the board would be provided by the Department of Health. Fees for examination and licensure would be set by the board in amounts sufficient to meet expenses incurred in administering provisions of the bill. Such fees would be deposited in a special fund to be called the Licensed Dietitian Act Fund. It is anticipated that 2,500 to 3,000 persons would apply for licensure.

The probable fiscal implication of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Probable Revenue Gain to the Licensed Dietitians Act Fund</u>	<u>Probable Cost to the Licensed Dietitians Act Fund</u>	<u>Change in Number of State Employees from FY 1983</u>
1984	\$78,210	\$78,210	+ 2
1985	63,808	63,808	+ 2
1986	63,808	63,808	+ 2
1987	63,808	63,808	+ 2
1988	63,808	63,808	+ 2

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

No fiscal implication to units of local government is anticipated.

  
Jim Oliver  
Director

Source: Department of Health;  
LBB Staff: JO, JH, GR, LV

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

March 18, 1983

Honorable Chet Brooks, Chairman  
Committee on Health and Human Resources  
Senate Chamber  
Austin, Texas

In Re: Senate Bill No. 671  
By: Glasgow, et al

Sir:

In response to your request for a Fiscal Note on Senate Bill No. 671 (relating to the regulation of dietitians; providing a penalty) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.


The bill would establish the Texas State Board of Examiners of Dietitians. The administrative services for the board would be provided by the Department of Health. Fees for examination and licensure would be set by the board in amounts sufficient to meet expenses incurred in administering provisions of the bill. Such fees would be deposited in a special fund to be called the Licensed Dietitian Act Fund. It is anticipated that 2,500 to 3,000 persons would apply for licensure.

The probable fiscal implication of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Probable Revenue Gain to the Licensed Dietitians Act Fund</u>	<u>Probable Cost to the Licensed Dietitians Act Fund</u>	<u>Change in Number of State Employees from FY 1983</u>
1984	\$88,210	\$88,210	+ 2
1985	73,808	73,808	+ 2
1986	73,808	73,808	+ 2
1987	73,808	73,808	+ 2
1988	73,808	73,808	+ 2

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

No fiscal implication to units of local government is anticipated.

  
Jim Oliver  
Director

Source: Department of Health;  
LBB Staff: JO, JH, GR, BL

Committee Amendment No. 1  
By: Bomer

Amend S.B. 671 as follows:

Strike the language "September 1, 1991" on Page 15, Line 1, and  
add the language "September 1, 1993".

**ADOPTED**

**MAY 18 1983**

*Betty Murray*  
Chief Clerk  
House of Representatives

House Am. #1  
5/27/83

3rd READING

AMENDMENT

BY Emmett

Amend S.B. 671 on p.3, by striking subsection (f),  
and substituting the following:

(f) It is the intent of the legislature that the membership of the board reflect the historical and cultural diversity of the inhabitants of this state; therefore, appointments to the board should be made without discrimination based on race, creed, sex, religion, national origin, or geographical distribution of the appointees.

**ADOPTED**

MAY 25 1983

*Betty Murray*  
Chief Clerk  
House of Representatives

*A.C.C.R.*  
*5/27/83*

*House Am. # 2*  
*5/27/83*

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Dec

S.B. No. 671

AN ACT

relating to licensing and regulation of dietitians and to the membership, qualifications, and duties of the Texas State Board of Examiners of Dietitians and to the duties of the Texas Board of Health, and the Texas Department of Health; authorizing fees to meet expenses necessary to administer the Act; requiring an annual audit and certain reports; defining certain offenses and providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. SHORT TITLE. This Act may be cited as the  
Licensed Dietitian Act.

SECTION 2. DEFINITIONS. In this Act:

(1) "Board of health" means the Texas Board of Health.

(2) "Department" means the Texas Department of Health.

(3) "Commissioner" means the commissioner of health.

(4) "Board" means the Texas State Board of Examiners of Dietitians.

(5) "Commission on Dietetic Registration" means the Commission on Dietetic Registration that is a member of the National Commission on Health Certifying Agencies.

(6) "Dietetics" means the professional discipline of applying and integrating scientific principles of nutrition under different health, social, cultural, physical, psychological, and economic conditions to the proper nourishment, care, and education of individuals or groups throughout the life cycle. The term

1 includes without limitation the development, management, and  
2 provision of nutritional services.

3 (7) "Licensed dietitian" means a person licensed under this  
4 Act.

5 (8) "Provisional licensed dietitian" means a person  
6 provisionally licensed under this Act.

7 (9) "Degree" means a degree received from a college or  
8 university that was regionally accredited at the time the degree  
9 was conferred.

10 SECTION 3. BOARD; MEMBERSHIP. (a) The Texas State Board of  
11 Examiners of Dietitians is created.

12 (b) The board is composed of nine members. Three members  
13 must be members of the general public. Six members must be  
14 dietitians licensed under this Act.

15 (c) The governor with the advice and consent of the senate  
16 shall appoint the board members, who shall serve staggered terms of  
17 six years with two terms beginning September 1 of each odd-numbered  
18 year.

19 (d) The professional discipline of dietetics includes five  
20 primary areas of expertise: clinical, educational, management,  
21 consultation, and community. In making the six professional  
22 appointments to the board, the governor shall consider and attempt  
23 to accomplish a continuing balance of representation among these  
24 areas of expertise. Following the fourth anniversary date of the  
25 effective date of this Act, a licensee eligible for appointment as  
26 a professional board member must have been a licensed dietitian

1 under this Act for at least three years before his appointment to  
2 the board.

3 (e) A person is eligible for appointment as a public member  
4 if the person and the person's spouse:

5 (1) are not licensed by an occupational regulatory agency in  
6 the field of health care;

7 (2) are not employed by and do not participate in the  
8 management of an agency or business entity that provides  
9 health-care services or that sells, manufactures, or distributes  
10 health-care supplies or equipment; and

11 (3) do not own, control, or have a direct or indirect  
12 interest in more than 10 percent of a business entity that provides  
13 health-care services or that sells, manufactures, or distributes  
14 health-care supplies or equipment.

15 (f) It is the intent of the legislature that the membership  
16 of the board reflect the historical and cultural diversity of the  
17 inhabitants of this state; therefore, appointments to the board  
18 should be made without discrimination based on race, creed, sex,  
19 religion, national origin, or geographical distribution of the  
20 appointees.

21 (g) A member or employee of the board may not be an officer,  
22 employee, or paid consultant of a trade association in the field of  
23 health care.

24 (h) A person who is required to register as a lobbyist under  
25 Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973,  
26 as amended (Article 6252-9c, Vernon's Texas Civil Statutes), in a  
27 health-related area may not serve as a member of the board or act  
28 as the general counsel to the board.

1           SECTION 4.    GROUNDS FOR REMOVAL.   (a) It is a ground for  
2 removal from the board if a member:

3           (1) does not have at the time of appointment the  
4 qualifications required for appointment to the board;

5           (2) does not maintain during service on the board the  
6 qualifications required for appointment to the board; or

7           (3) violates a prohibition established by this Act.

8           (b) If a ground for removal of a member from the board  
9 exists, the board's actions taken during the existence of the  
10 ground for removal are valid.

11          SECTION 5.   OFFICERS; MEETINGS; QUORUM; EXPENSES. (a) Not  
12 later than the 30th day after the day its new members are appointed  
13 by the governor, the board shall meet to elect a chairman and  
14 vice-chairman who shall hold office according to rules adopted by  
15 the board.

16          (b) The board shall hold at least two regular meetings each  
17 year as provided by rules adopted by the board. The rules may not  
18 be inconsistent with present rules of the department relating to  
19 meetings of boards.

20          (c) A majority of the members constitutes a quorum.

21          (d) Each member of the board is entitled to a per diem  
22 payment at the rate set by the legislature for state employees in  
23 the General Appropriations Act for each day that the member engages  
24 in the business of the board. A member is entitled to compensation  
25 for transportation expenses as provided by the General  
26 Appropriations Act. A board member may not receive a fixed salary



1 for his services.

2 SECTION 6. POWERS AND DUTIES OF BOARD. (a) The board may  
3 adopt rules consistent with this Act. In adopting rules, the board  
4 shall consider the rules and procedures of the board of health and  
5 the department and shall adopt procedural rules not inconsistent  
6 with similar existing rules and procedures of the board of health  
7 or the department.

8 (b) The board shall:

9 (1) adopt and publish a code of ethics and adopt an official  
10 seal;

11 (2) establish the qualifications and fitness of applicants  
12 for licenses, renewal of licenses, and reciprocal licenses;

13 (3) revoke, suspend, or deny a license, probate a license  
14 suspension, or reprimand a licensee for a violation of this Act,  
15 the code of ethics, or the rules of the board;

16 (4) spend funds necessary for the proper administration of  
17 its assigned duties;

18 (5) establish reasonable and necessary fees for the  
19 administration and implementation of this Act; and

20 (6) comply with the open meetings law, Chapter 271, Acts of  
21 the 60th Legislature, Regular Session, 1967, as amended (Article  
22 6252-17, Vernon's Texas Civil Statutes), and the Administrative  
23 Procedure and Texas Register Act, as amended (Article 6252-13a,  
24 Vernon's Texas Civil Statutes).

25 (c) The board may not adopt rules restricting competitive  
26 bidding or advertising by a person regulated by the board except to

1 prohibit false, misleading, or deceptive practices. The board may  
2 not include in its rules to prohibit false, misleading, or  
3 deceptive practices by a person regulated by the board a rule that:

4 (1) restricts the person's use of any medium for  
5 advertising;

6 (2) restricts the person's personal appearance or use of his  
7 personal voice in an advertisement;

8 (3) relates to the size or duration of any advertisement by  
9 the person; or

10 (4) restricts the person's advertisement under a trade name.

11 SECTION 7. ADMINISTRATIVE FUNCTIONS; PERSONNEL. (a) The  
12 basic personnel and necessary facilities that are required to  
13 administer this Act shall be the personnel and facilities of the  
14 department. The department personnel shall act as the agents of  
15 the board. If necessary to the administration or implementation of  
16 this Act, the department by agreement may secure and provide for  
17 compensation for services that it considers necessary and may  
18 employ and compensate within available appropriations professional  
19 consultants, technical assistants, and employees on a full-time or  
20 part-time basis.

21 (b) The commissioner shall designate an employee to serve as  
22 executive secretary of the board. The executive secretary must be  
23 an employee of the department. The executive secretary shall be  
24 the administrator of the licensing activities for the board. In  
25 addition to other duties prescribed by this Act and by the  
26 department, the executive secretary shall:

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S.B. No. 671

1           (1) keep full and accurate minutes of the transactions and  
2 proceedings of the board;

3           (2) be the custodian of the files and records of the board;

4           (3) prepare and recommend to the board plans and procedures  
5 necessary to implement the purposes and objectives of this Act,  
6 including rules and proposals on administrative procedures  
7 consistent with this Act;

8           (4) exercise general supervision over persons employed by  
9 the department in the administration of this Act;

10          (5) be responsible for the investigation of complaints and  
11 for the presentation of formal complaints;

12          (6) attend all meetings of the board as a nonvoting  
13 participant; and

14          (7) handle the correspondence of the board and obtain,  
15 assemble, or prepare the reports and information that the board may  
16 direct or authorize.

17          SECTION 8. FEES; FUNDS; ANNUAL REPORT; AUDIT. (a) After  
18 consultation with the commissioner or the department, the board  
19 shall set the fees imposed by this Act in amounts that are adequate  
20 to collect sufficient revenue to meet the expenses necessary to  
21 administer this Act without accumulating an unnecessary surplus in  
22 the Licensed Dietitian Act fund created by this section.

23          (b) The department shall receive and account for funds  
24 derived under this Act. The funds shall be deposited in the State  
25 Treasury to the credit of a special fund to be known as the  
26 Licensed Dietitian Act fund to be used only for the administration

1 of this Act.

2 (c) Not later than January 1 each year, the department shall  
3 make a written report to the governor, lieutenant governor, and  
4 speaker of the house of representatives accounting for all funds  
5 received and disbursed by the board or the department for the  
6 administration of this Act during the preceding year.

7 (d) During each fiscal year, the State Auditor shall audit  
8 the financial transactions of the board or the department in  
9 relation to the administration of this Act.

10 SECTION 9. APPLICANT QUALIFICATIONS; APPLICATION  
11 REVIEW. (a) An applicant for a dietitian license must submit a  
12 sworn application, accompanied by the application fee.

13 (b) The board shall prescribe the form of the application  
14 and may by rule establish dates by which applications and fees must  
15 be received. These rules must not be inconsistent with present  
16 rules of the department related to application dates of other  
17 licenses.

18 (c) To qualify for the licensing examination under this Act,  
19 the applicant must:

20 (1) possess a baccalaureate or postbaccalaureate degree with  
21 a major course of study in human nutrition, food and nutrition,  
22 dietetics, or food systems management or an equivalent major course  
23 of study approved by the board; and

24 (2) have completed an internship or preplanned professional  
25 experience program approved by the board.

26 (d) Not later than the 45th day after the receipt of a

properly submitted and timely application and not later than the 30th day before the next examination date, the department shall notify an applicant in writing that his application and any other relevant evidence pertaining to applicant qualifications established by the board by rule has been received and investigated. The notice shall state whether the application and other evidence submitted have qualified the applicant for examination. If the applicant has not qualified for examination, the notice shall state the reasons for the lack of qualification.

SECTION 10. EXAMINATION. (a) To qualify for a license under this Act, an applicant must pass a competency examination. Examinations shall be prepared or approved by the board and administered to qualified applicants at least twice each calendar year.

(b) An examination prescribed by the board may be or may include an examination given by the Commission on Dietetic Registration or by a national or state testing service in lieu of an examination prepared by the board.

(c) Not later than the 30th day after the day on which a licensing examination is administered under this Act, the department shall notify each examinee of the results of the examination. If an examination is graded or reviewed by a national or state testing service, the department shall notify examinees of the results of the examination within two weeks after the day the department receives the results from the testing service. If the notice of the examination results will be delayed for more than 90

1 days after the examination date, the department shall notify the  
2 examinee of the reason for the delay before the 90th day.

3 (d) If requested in writing by a person who fails the  
4 licensing examination, the department shall furnish the person with  
5 an analysis of the person's performance on the examination.

6 (e) If an applicant fails the examination three times, the  
7 applicant must furnish evidence to the board of completed course  
8 work taken for credit with a passing grade in the areas of weakness  
9 before the applicant may again apply for examination.

10 SECTION 11. LICENSE. (a) A person who meets the licensing  
11 qualifications under this Act is entitled to receive a license  
12 certificate as a licensed dietitian.

13 (b) The licensee must:

14 (1) display the license certificate in an appropriate and  
15 public manner; and

16 (2) keep the department informed of his current address.

17 (c) A license certificate issued by the board is the  
18 property of the board and must be surrendered on demand.

19 SECTION 12. LICENSE EXPIRATION; RENEWAL. (a) A license is  
20 valid for one year from the date it is issued and may be renewed  
21 annually.

22 (b) The board of health by rule may adopt a system under  
23 which licenses expire on various dates during the year.

24 (c) A person may renew an unexpired license by paying the  
25 required renewal fee to the department before the expiration date  
26 of the license.

1 (d) If a person's license has been expired for not more than  
2 90 days, the person may renew the license by paying to the  
3 department the required renewal fee and a penalty fee that is  
4 one-half of the renewal fee.

5 (e) If a person's license has been expired for more than 90  
6 days but less than two years, the person may renew the license by  
7 paying to the department all unpaid renewal fees and a penalty fee  
8 that is equal to the renewal fee.

9 (f) If a person's license has been expired two years or  
10 more, the person may not renew the license. The person may obtain  
11 a new license by submitting to reexamination and complying with the  
12 current requirements and procedures for obtaining a license.

13 (g) The department shall notify each licensee in writing of  
14 the license expiration date at least 30 days before that date and  
15 shall obtain from the licensee a signed receipt confirming receipt  
16 of notification.

17 SECTION 13. PROVISIONAL LICENSE. (a) A license to use the  
18 title of provisional licensed dietitian may be issued by the board  
19 on the filing of an application, payment of an application fee, and  
20 the submission of evidence of the successful completion of the  
21 educational requirement under Section 9 of this Act. The initial  
22 application shall be signed by the supervising licensed dietitian.

23 (b) A provisional licensed dietitian shall be under the  
24 supervision and direction of a licensed dietitian.

25 (c) A person qualified for a provisional license under this  
26 Act is entitled to receive a license certificate as a provisional

1 licensed dietitian. A provisional licensed dietitian must comply  
2 with Subsections (b) and (c) of Section 11 of this Act.

3 (d) A provisional license is valid for one year from the  
4 date it is issued and may be renewed annually by the same  
5 procedures established for renewal under Section 12 of this Act if  
6 the application for renewal is signed by the supervising licensed  
7 dietitian.

8 SECTION 14. RECIPROCITY. On receipt of an application and  
9 application fee, the board shall waive the examination requirement  
10 for an applicant who, at the time of application:

11 (1) is registered by the Commission on Dietetic Registration  
12 as a registered dietitian; or

13 (2) holds a valid license or certificate as a licensed or  
14 registered dietitian issued by another state with which this state  
15 has a reciprocity agreement.

16 SECTION 15. PROHIBITED ACTS; PENALTY. (a) A person may not  
17 use the title or represent or imply that he has the title of  
18 "licensed dietitian" or "provisional licensed dietitian" or use the  
19 letters "LD" or "PLD" and may not use any facsimile of those titles  
20 in any manner to indicate or imply that the person is a licensed  
21 dietitian or provisional licensed dietitian, unless the person  
22 holds an appropriate license issued under this Act.

23 (b) A person may not use the title or represent or imply  
24 that he has the title of "registered dietitian" or the letters "RD"  
25 and may not use any facsimile of the title in any manner to  
26 indicate or imply that the person is registered as a registered



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1 dietitian by the Commission on Dietetic Registration, unless the  
2 person is registered as a registered dietitian by the Commission on  
3 Dietetic Registration.

4 (c) A person commits an offense if the person knowingly or  
5 intentionally violates Subsection (a) or (b) of this section. An  
6 offense under this section is a Class B misdemeanor.

7 SECTION 16. COMPLAINT FILE AND STATUS. (a) The department  
8 shall keep an information file about each complaint filed with the  
9 board related to a licensee.

10 (b) If a written complaint is filed with the board relating  
11 to a licensee, the department, at least as frequently as quarterly,  
12 shall notify the parties to the complaint of the status of the  
13 complaint until final disposition of the complaint.

14 SECTION 17. REVOCATION AND SUSPENSION; EX PARTE  
15 COMMUNICATION. (a) The board shall revoke or suspend a license,  
16 probate a license suspension, or reprimand a licensee on proof of:

- 17 (1) any violation of this Act; or  
18 (2) any violation of a rule or code of ethics adopted by the  
19 board.

20 (b) If the board proposes to suspend or revoke a person's  
21 license, the person is entitled to a hearing before the board.

22 (c) Proceedings for the suspension or revocation of a  
23 license are governed by the Administrative Procedure and Texas  
24 Register Act, as amended (Article 6252-13a, Vernon's Texas Civil  
25 Statutes).

26 (d) A member or employee of the board or an employee of the

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1 department who carries out the functions of the board may not  
2 communicate directly or indirectly with a party to a proceeding  
3 pending before the board or with the party's representative, unless  
4 notice and an opportunity to participate are given to each party to  
5 the proceeding if the member or employee proposes to make a  
6 decision, a finding of fact, or a conclusion of law in the  
7 proceeding.

8 SECTION 18. DUTIES OF BOARD OF HEALTH. For the purpose of  
9 implementing this Act, the board of health:

10 (1) shall request and receive any necessary assistance of  
11 state educational institutions or other state agencies;

12 (2) shall prepare information of consumer interest  
13 describing the regulatory functions of the board, the procedures by  
14 which consumer complaints are filed and resolved, and the  
15 profession of dietetics;

16 (3) shall prepare a registry of licensed dietitians and  
17 provisional licensed dietitians and make this information available  
18 to the general public, licensees, and appropriate state agencies;  
19 and

20 (4) may request the attorney general or the appropriate  
21 county or district attorney to institute a suit to enjoin a  
22 violation of this Act in addition to any other action, proceeding,  
23 or remedy authorized by law.

24 SECTION 19. APPLICATION OF SUNSET ACT. The board is subject  
25 to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas  
26 Civil Statutes). Unless continued in existence as provided by that

1 Act, the board is abolished effective September 1, 1993.

2 SECTION 20. INITIAL BOARD APPOINTMENTS. (a) In making the  
3 initial appointments to the board, the governor shall designate  
4 three members, including one public member, for terms expiring  
5 September 1, 1989, three members, including one public member, for  
6 terms expiring September 1, 1987, and three members, including one  
7 public member, for terms expiring September 1, 1985.

8 (b) In making the initial six professional appointments to  
9 the board, the governor shall appoint six persons otherwise  
10 qualified under this Act who also have been for 60 months  
11 immediately preceding their appointment and who presently are  
12 registered as registered dietitians by the Commission on Dietetic  
13 Registration.

14 SECTION 21. INITIAL LICENSING PERIOD. For one year  
15 beginning on the effective date of this Act, the board shall waive  
16 the examination requirement under this Act and grant a license  
17 under this Act to any person who:

18 (1) is registered by the Commission on Dietetic Registration  
19 as a registered dietitian on the effective date of this Act or who  
20 becomes so registered before the one year anniversary of the  
21 effective date of this Act; or

22 (2) possesses a baccalaureate or postbaccalaureate degree,  
23 has satisfactorily completed appropriate academic requirements in  
24 the field of human nutrition, food and nutrition, dietetics, or  
25 food systems management or a directly related field approved by the  
26 board, and either has satisfactorily completed an internship or

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1 preplanned professional experience program of not less than six  
2 months approved by the board or has been employed in the field of  
3 dietetics for three of the 10 years immediately preceding the  
4 effective date of this Act.

5 SECTION 22. EFFECTIVE DATE. This Act takes effect  
6 September 1, 1983.

7 SECTION 23. EMERGENCY. The importance of this legislation  
8 and the crowded condition of the calendars in both houses create an  
9 emergency and an imperative public necessity that the  
10 constitutional rule requiring bills to be read on three several  
11 days in each house be suspended, and this rule is hereby suspended.

del  
The

S.B. No. 671

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 671 passed the Senate on April 12, 1983, by a viva-voce vote; and that the Senate concurred in House amendments on May 27, 1983, by a viva-voce vote.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 671 passed the House, with amendments, on May 25, 1983, by a non-record vote.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

S. B. No. 671 By Delasgozo

AN ACT relating to the regulation of dietitians; providing a penalty.

3-2-83 Filed with the Secretary of the Senate  
MAR 3 1983 Read, referred to Committee on HEALTH AND HUMAN RESOURCES  
Reported favorably.  
APR 6 1983 Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.  
Ordered not printed.  
APR 12 1983 Senate and Constitutional Rules to permit consideration suspended by unanimous consent years, \_\_\_\_\_ nays.  
To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of \_\_\_\_\_ years, \_\_\_\_\_ nays.  
APR 12 1983 Read second time amended and ordered engrossed.  
APR 12 1983 Caption ordered amended to conform to body of bill.  
APR 12 1983 Senate and Constitutional 3-Day Rules suspended by vote of 26 years, 2 nays to place bill on third reading and final passage.  
APR 12 1983 Read third time and passed by a viva-voce vote years \_\_\_\_\_ nays.

OTHER ACTION:  
Betty King  
Secretary of the Senate

April 12 1983 Engrossed  
4-13-83 Sent to House  
Patsy Spaw  
ENGROSSING CLERK

APR 13 1983 Received from the Senate  
APR 19 1983 Read first time and referred to Committee on State Affairs  
4-25-83 Reported favorably amended, sent to Printer at 7:00 p.m.  
MAY 3 1983 Printed and Distributed 1:44 p.m.  
MAY 3 1983 Sent to Committee on Calendars 6:46 p.m.  
MAY 18 1983 Read Second time (amended) passed to third reading (failed)  
by (Non-Record Vote) Record Vote of \_\_\_\_\_ years, \_\_\_\_\_ nays  
\_\_\_\_\_ Present, not voting.  
Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of \_\_\_\_\_ years \_\_\_\_\_ nays \_\_\_\_\_ present not voting.  
MAY 25 1983 Read third time (amended); finally passed (failed) by a (Non-Record Vote) Record Vote of \_\_\_\_\_ years \_\_\_\_\_ nays  
\_\_\_\_\_ present not voting.  
MAY 25 1983 Caption ordered amended to conform to body of bill.  
MAY 25 1983 Returned to Senate.

MAY 26 1983 RETURNED FROM HOUSE  
with amendment  
MAY 27 1983 Senate concurred in House amendments by vote \_\_\_\_\_  
Betty Murray  
Chief Clerk of the House

1983 MAY -3 PM 1:44

HOUSE OF REPRESENTATIVES